

# SIBLEY COUNTY

## Article 300 “Zoning Ordinance” of the Code of Ordinances of the County of Sibley

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## **ARTICLE 300 ZONING ORDINANCE OF SIBLEY COUNTY**

***AN ORDINANCE REQUIRING PERMITS FOR BUILDINGS, STRUCTURES AND THE USES THEREOF; FOR LAND USES AND FOR WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES; AND ESTABLISHING MINIMUM LOT SIZES, SETBACKS AND SIDE YARDS; PROVIDING FOR PARKING AND OTHER REQUIREMENTS; AND IMPOSING PENALTIES.***

### **SECTION 300.1 PURPOSES AND INTENT**

This Ordinance is enacted for the following purposes: to promote the health, safety, morals and general welfare throughout Sibley County by lessening congestion in the public rights-of-way, securing safety from fire, panic and other dangers, providing adequate lights and air; facilitating the adequate provision of water, sewage and other public requirements; conserving the value of properties and encouraging the most appropriate use of land; and, pursuant to "an act authorizing county planning and zoning activities, establishing a Board of Adjustment and authorizing the enactment of official controls" passed by the Legislature of the State of Minnesota, Chapter 559, Laws of 1959, as amended.

### **SECTION 300.2 TITLE**

This Ordinance shall be known and may be cited and referred to as the "Sibley County Zoning Ordinance"; when referred to herein, it shall be known as "this Ordinance".

### **SECTION 300.3 JURISDICTION, SCOPE AND INTERPRETATION**

#### **SUBD 300.3.1 Jurisdiction**

The jurisdiction of this Ordinance shall apply to all the area of Sibley County outside the incorporated limits of municipalities.

#### **SUBD 300.3.2 Scope**

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in Sibley County shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to non-conforming properties or uses.

Subdivision of land is not directly within the scope of this ordinance but new lots resulting from land subdivision must conform to this ordinance in order to be eligible building sites.

New Land subdivisions must also be done in conformance with the Sibley County Subdivision Ordinance in order to be eligible as a building site.

### SUBD 300.3.3 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

## **SECTION 300.4 RULES AND DEFINITIONS**

### SUBD. 300.4.1. Rules

- 300.4.1.1 Word Usage: For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "lot" shall include the word "plot"; and the word "shall" is mandatory and not discretionary.
- 300.4.1.2. Permitted Uses: Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the district indicated under the conditions specified. No building or land shall be devoted to any use other than as permitted hereinafter in the zoning district in which such building, structure or land shall be located, except for the following exceptions.
- a. Uses lawfully established prior to the effective date of this Ordinance.
  - b. Conditional uses allowed in accordance with Paragraph 300.4.1.3 of this SECTION.
  - c. Essential services are permitted uses in all zoning districts and are not subject to height, yard, or setback requirements or permits, except as in provided in SUBD 300.17.2 of SECTION 300.17.
- 300.4.1.3. Conditional Uses: Conditional Uses of land or buildings, as hereinafter listed, may be allowed in the districts indicated, subject to the issuance of Conditional Use Permits, in accordance with the provisions of SECTION 300.15. Whenever a conditional use is named as a major category, it shall be deemed to include all and only those itemized uses listed.

300.4.1.4. Other regulations: For permitted or conditionally permitted uses, there are also standards herein that further regulate use activities, placement of structures and design of certain structures.

#### SUBD. 300.4.2. Definitions

For the purpose of this Ordinance, certain items and words are defined as follows:

- 300.4.2.1. Accessory Structure -- A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.
- 300.4.2.2. Accessory Use -- A use is subordinate and incidental to the principal use of the lot or a building located on the same lot.
- 300.4.2.3. Agriculture -- The art or science of cultivating the soil and activities incidental thereto: the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming; the raising of nursery plants and tree farming.
- 300.4.2.4. Animal Unit -- A unit of measure used to compare differences in production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. Sibley County adopts by reference the definition found in Minnesota Rules Part 7020.0300, and subsequent amendments thereto.
- 300.4.2.5. Automobile Wrecking -- See Salvage yard. 300.4.2.91
- 300.4.2.6. Basement -- any area of 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.
- 300.4.2.7. Bed and Breakfast Facility -- A dwelling in which the owner or manager resides, which contains 10 or less guest rooms, in which lodging is provided for compensation with or without meals being provided to the guest by the owner, which is open for transient or permanent guests or both, and in which no provision is made for cooking in the guest rooms.
- 300.4.2.8. Block -- An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.
- 300.4.2.9. Bluff -- A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18

percent over a distance for 50 feet or more shall not be considered part of the bluff): 1) The slope rises at least 25 feet; in shoreland areas the slope must rise 25 feet above the ordinary high water level of the waterbody, and in non-shoreland areas the slope must have a vertical rise of at least 25 feet. 2) The grade of slope from the toe of the bluff or from the ordinary high water level in shoreland area averages 30 percent or greater.

- 300.4.2.10 Bluff impact zone -- A bluff and land located within the 20 feet from the top of a bluff.
- 300.4.2.11 Board of County Commissioners -- Sibley County Board of Commissioners.
- 300.4.2.12 Boathouse -- means a structure designed and used solely for the storage of boats or boating equipment.
- 300.4.2.13 Building -- Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
- 300.4.2.14 Building Height -- The vertical distance from the average of the highest lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck of mansard roofs, and to mean height between eaves and ridge for gable, hip and gambrel roofs.
- 300.4.2.15 Building Setback Line -- A line within a lot or other parcel of land parallel to a public road, street, highway right-of-way line, or normal high water level defining a portion of the lot between said setback line and said right-of-way line or water level on which buildings or structures may not be placed.
- 300.4.2.16 Campground -- An area where overnight stay is provided or allowed for transient guests using their own movable equipment. In Shoreland Districts, campgrounds are considered as Planned Unit Developments. (Also see organized group camp definition).
- 300.4.2.17 Cluster Development -- A pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
- 300.4.2.18 Commercial use -- The principal use of land or buildings for the sale, lease, rental, or trade of products, goods and services.

- 300.4.2.19 Commissioner -- Minnesota Commissioner of Natural Resources.
- 300.4.2.20 Community Water and Sewer Systems -- Utilities systems serving a group of buildings, lot, or an area of the County, with the design and construction of such utility systems as approved by the County and the State of Minnesota.
- 300.4.2.21 Conditional Use -- A use which, because of unique characteristics, cannot be classified as a permitted use in an particular district, after due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location, a "Conditional Use Permit" may or may not be granted. If granted, the County Commissioners and/or the County Board may attach conditions and guarantees upon the zoning district deemed necessary for the protection of the public interest.
- 300.4.2.22 Corner Lot -- A lot situated at the junction of and fronting on two or more roads or highway.
- 300.4.2.23 County -- Sibley County, Minnesota.
- 300.4.2.24 Reserved.
- 302.4.2.24 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.
- 300.4.2.25 Depth of Lot -- The mean horizontal distance between the mean front and the mean rear lot line. The greater frontage of a corner is its depth, and its lesser frontage is its width.
- 300.4.2.26 Depth of Rear Yard -- The mean horizontal distance between rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.
- 300.4.2.27 District -- A section of the County for which the regulations governing the height, area, use of buildings and premises are the same.
- 300.4.2.28 Dwelling -- Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently, or transiently; trailer, basement home or tent shall not be considered a dwelling for purposes of this Ordinance, but a manufactured home will be.

- 300.4.2.29 Dwelling, Accessory -- A separate dwelling constructed on an undivided lot for the sole use by the occupants of the principal building, including their immediate relatives, but shall not be used for commercial or rental purposes. Accessory Dwelling units may be either attached to the single-family dwelling unit (“attached”) or within a detached building (“detached”). Accessory Dwelling units shall be developed in accordance with the provisions of SECTION 300.14.5 and only in those zoning districts where the use is listed as a conditional use
- 300.4.2.30 Dwelling, Extra Farm -- A dwelling where the lot size is reduced because it's for workers of the adjacent farm.
- 300.4.2.31 Dwelling, One Family -- A dwelling designed for or occupied exclusively by one (1) family.
- 300.4.2.32 Dwelling site -- A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 300.4.2.33 Dwelling, Temporary -- A dwelling that is to be used for the duration of a certain situation such as for farm workers, during construction of something else, or other that can reasonably be removed when situation ends. It does not require a separate lot.
- 300.4.2.34 Dwelling, Two Family -- A dwelling that incorporates 2, one family dwelling units into one structure with a common wall.
- 300.4.2.35 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.
- 300.4.2.36 Equal Degree of Encroachment -- A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 300.4.2.37 Essential Services -- Overhead or underground electrical, gas, steam or water transmission of distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, municipal lagoons, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, or road and rail systems, but not

including buildings. For the purpose of this Ordinance, the word "building" does not include "structure" for essential services.

NOTE: On January 20, 1981, the Sibley County Attorney's Office went on record stating that "municipal lagoons" were classified as an "essential service" therefore permitted in all districts.

- 300.4.2.38 Existing site -- A site where a dwelling formerly stood that still has an area at least an acre in size that is distinguishable as being separate from the adjacent land by the existence of physical evidence such as vegetation, fences, yard lines, structures and driveways.
- 300.4.2.39 Extraction Pit -- Any artificial excavation of the earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone, or other natural matter, or made by turning, or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation.
- 300.4.2.40 Family -- A number of individuals living together on the premises as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.
- 300.4.2.41 Farming -- The cultivation of the soil and all activities incidental thereto; agriculture.
- 300.4.2.42 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 feedlots. Pastures shall not be considered feedlots under these parts. Manure storage areas off the site of the feedlot not meeting the definition of an Offsite Manure Stockpile will be considered as a separate feedlot.
- 300.4.2.43 Feedlot, Agricultural -- A feedlot as an accessory use incidental to a farming operation with dwelling.
- 300.4.2.44 Feedlot, Commercial -- A feedlot that is not an accessory use to a farming operation with dwelling.

- 300.4.2.45 Feedlot, Existing -- A feedlot that has been active for at least 3 of the last 5 years.
- 300.4.2.46 Final Plat -- A drawing or map of a subdivision, meeting all the requirements of the County and in such form as required by the County for purposes of recording .
- 300.4.2.47 Flood -- A temporary increase in the flow or stage of a stream or river, in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 300.4.2.48 Floodway -- The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- 300.4.2.49 Floor Area -- The sum of the gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.
- 300.4.2.50 Flood Frequency -- The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 300.4.2.51 Flood Fringe -- That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Sibley County.
- 300.4.2.52 Flood Plain -- The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 300.4.2.53 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 discharge.
- 300.4.2.54 Fur Farm -- An area used for keeping and/or raising fur bearing animals.
- 300.4.2.55 Garage, Private -- A garage which is erected as an accessory building.
- 300.4.2.56 Garage, Public -- Any premises, except those described as a private garage, used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire, or sale.

- 300.4.2.57 Hardship -- The same as that term is defined in Minnesota Statutes, Chapter 394.
- 300.4.2.58 Height of Structure -- The distance from the highest part of the structure to the highest ground level adjoining the structure base.
- 300.4.2.59 Highway -- Any public thoroughfare or vehicular right-of-way with a Federal or State Numerical route designation; any public thoroughfare or vehicular right-of-way with a Sibley County numerical route designation.
- 300.4.2.60 Home Occupation -- Any occupation taking place as an accessory use to a dwelling, principal use as regulated by the general regulations herein.
- 300.4.2.61 Immediate relative – A person’s spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
- 300.4.2.62 Industrial use -- The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 300.4.2.63 Intensive vegetation clearing -- The complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- 300.4.2.64 Kennel -- the commercial boarding, breeding or selling of dogs or cats that involve over 3 adult dogs or 4 adult cats; or the housing for humane purposes of over three (3) adult dogs or four (4) adult cats, including animal shelters, animal refuges, and other similar type entities.
- 300.4.2.65 Lot -- A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by said description and recorded with the Office of the County Recorder.
- 300.4.2.66 Lot Area -- The lot area is the land area within the lot lines.
- 300.4.2.67 Lot Area per Family -- The lot area per family is the lot area required by this Ordinance to be provided for each family in a dwelling.
- 300.4.2.68 Lot, Double Frontage -- An interior lot having frontage on two streets.
- 300.4.2.69 Lot, Interior -- A lot other than a corner lot.
- 300.4.2.70 Lot Lines -- The lines bounding a lot, as defined herein. When a lot abuts road, street, avenue, park or other public property, except an alley, such line

shall be known as a street line, and when a lot abuts on an alley, it shall be known as an alley line.

- 300.4.2.71 Lot Width -- The width of a lot is its own mean width measured at the building setback line.
- 300.4.2.72 Lot Depth -- The mean horizontal distance between the mean front line and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
- 300.4.2.73 Manufactured Home -- A structure transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required facilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure to which the manufacturer voluntarily files a certification required by the secretary (US - HUD) and complies with the building code as evidenced by a seal displayed on the manufactured home.
- 300.4.2.74 Manufactured Home Park -- Any lot or part thereof, or any parcel of land which is used or offered as a location for 2 or more manufactured homes.
- 300.4.2.75 Metes and Bounds -- A method of property description by means of their direction and distance from an identified section survey.
- 300.4.2.76 Motel -- A building or group of buildings used primarily for the temporary residence of motorists or travelers.
- 300.4.2.77 Non-Conforming Uses -- A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.
- 300.4.2.78 Normal or Ordinary High Water Mark -- A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal or ordinary high watermark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the normal or ordinary high water level is the elevation of the top of the bank of the channel.  
For reservoirs and flowages, the normal or ordinary high water level is the operating elevation of the normal summer pool.

- 300.4.2.79 Obstruction -- Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 300.4.2.80 Offsite Manure Stockpile – a manure storage area not located on the site of a feedlot where manure is stored according to Minnesota Rules 7020.2125, subparts 1 to 3 and subsequent amendments thereto [short-term stockpiling].
- 300.4.2.81 Organized Farm Colonies – This means a group of five (5) or more families, with each family interrelated by blood or marriage and organized together; which group spends a majority of its time actively farming land owned by the group as a community and not individually; which group lives within the boundaries of the land owned by the group; which group qualifies as a non-profit corporation organized under Section 501 of the United States Internal Revenue Code; and which Colony is laid out as a planned unit development, as regulated in SUBD 300.11.5, of Section 300.11, R-SUBURBAN RESIDENCE DISTRICT.
- 300.4.2.82 Organized Group Camps -- Campgrounds or buildings used by public or semi-public organizations (such as scouts, churches, wildlife groups) for retreat, interpretative, educational and other activities that do not amount to activities that would be in conflict with the district's uses. If use is by the general public, then it would be defined as a campground or resort except for primitive tent type camping on wild undeveloped land.
- 300.4.2.83 Persons -- Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.
- 300.4.2.84 Planned unit development -- A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperative, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

- 300.4.2.85 Plat -- A land subdivision that creates new lots and/or public road right-of-ways, thereby replacing the former land records for the area plat.
- 300.4.2.86 Preliminary Plat -- A tentative drawing or map for a proposed subdivision plat.
- 300.4.2.87 Premises -- A lot or plot with the required front, side and rear yards for a dwelling or other use allowed under this Ordinance.
- 300.4.2.88 Principal Use or Structure -- All use or structures that are not accessory uses or structures.
- 300.4.2.89 Public Water -- A body of water as depicted on the Public Water Inventory map for Sibley County.
- 300.4.2.90 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.
- 300.4.2.91 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.
- 300.4.2.92 Regulatory Flood Protection Elevation -- An elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 300.4.2.93 Residential Zone -- The area inside a city, village, or borough and the area in the R-Suburban Residence District.
- 300.4.2.94 Road -- A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land , place or however otherwise designated.
- 300.4.2.95 Salvage Yard -- land or buildings where waste, discarded or salvaged materials are brought, 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 vehicles.  
(Changed to Salvage Yard from Junk Yard per Amendment on April 14,

1987 Board of Commissioners). Any premises with more than 5 unlicensed vehicles of any kind or type shall be declared a salvage yard.

- 300.4.2.96 Sanitary Landfill -- A sanitary landfill according to the American Society of Civil Engineers is "A method of disposing of solid wastes on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary."
- 300.4.2.97 Setback -- The minimum horizontal distance between a structure, sewage treatment system, or other facility and a normal high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 300.4.2.98 Sewage treatment system -- A septic tank and soil absorption system or other individual or cluster type sewage treatment system.
- 300.4.2.99 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.
- 300.4.2.100 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.
- 300.4.2.101 Shoreland -- Land located within the following distances from public waters: (1) 1,000 feet from the normal high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. 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.
- 300.4.2.102 Shoreland Areas. All shorelands of public waters as designated on the Protected Waters Inventory Map for Sibley County, Minnesota lying within the floodway, flood fringe or general flood plain districts are subject to the regulations set forth in the Shoreland Management Standards in Subdivision 300.14.14.
- 300.4.2.103 Shoreland Setback -- The minimum horizontal distance between a structure and the normal high water mark.

- 300.4.2.104 Sign -- A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.
- 300.4.2.105 Sign, Advertising -- 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.
- 300.4.2.106 Sign, Business - 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 sign is located.
- 300.4.2.107 Sign, Flashing -- Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
- 300.4.2.108 Sign, Illuminated -- Any sign which has characters, letter, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.
- 300.4.2.109 Sign, Rotating -- A sign which revolves or rotates on its axis by mechanical means.
- 300.4.2.110 Sign, Surface Area of -- The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.
- 300.4.2.111 Sign, Warning -- A sign which warns of a danger or hazard in the immediate vicinity and is obviously not serving any advertising purpose.
- 300.4.2.112 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.
- 300.4.2.113 Story -- The portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is not a floor above it, the space between the floor and the ceiling next above it.

- 300.4.2.114 Story, Half -- That portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls are not more than two feet above the floor of such story.
- 300.4.2.115 Structure -- Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Paragraph 300.6.9.3 of the ordinance and other similar items.
- 300.4.2.116 Structure Alterations -- Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
- 300.4.2.117 Subdivision --Land that is divided into smaller lots.

NOTE: The Sibley County Subdivision Ordinance requires that certain land subdivisions go through the platting process or other requirements in order for this Zoning Ordinance to recognize eligible building sites.

- 300.4.2.118 Substandard Shoreland Use -- Any use of shorelands existing prior to the date of any county ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks, or other dimensional standards of the ordinance.
- 300.4.2.119 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.
- 300.4.2.120 Toe of the bluff -- The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- 300.4.2.121 Top of the bluff -- The point on a bluff where there is visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. Top of bluff is the highest point of a 50-foot segment with an average slope at or exceeding 18 percent moving upslope on the bluff. Outside the shoreland areas, top of bluff may be considered the “crest” of the bluff; where the Planning Commission and Zoning Administrator can identify the “crest”. Where agreement can not be reached on the location of the crest, the top of bluff shall be considered that highest point over a 50-foot segment

where the average slope breaks from 18 percent to less than 18 percent slope.

- 300.4.2.122 Unincorporated Area -- The area outside a city, village, or borough.
- 300.4.2.120 Use -- The purpose of which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.
- 300.4.2.121 Variance -- A modification or variation of the provisions of this Ordinance, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.
- 300.4.2.122 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.
- 300.4.2.123 Water Supply Purpose -- Includes any uses of water for domestic, commercial, industrial or agricultural purposes.
- 300.4.2.124 Wetland -- A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 editions).
- 300.4.2.125 Yard -- Any space in the same lot with a building open and unobstructed from the ground to the sky.
- 300.4.2.126 Yard, Front -- A yard extending across the front of the lot between the side yard lines and lying between the right-of-way line of the road or highway, and the nearest line of the building.
- 300.4.2.127 Yard, Rear -- An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear lot line of the lot, for the full width of the lot.
- 300.4.2.128 Yard, Side -- An open, unoccupied space on the same lot with a building between the building and the side line of the lot and extending from the front line to the rear of the back yard.



map is hereby made a part of this Ordinance; said map shall be known as the “County Zoning Map”. Said map, consisting of sheets and all notations, references and data shown thereon is hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein.

#### SUBD 300.5.4 District Boundaries

The boundaries between districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or lines parallel or perpendicular thereto, or section, half-section, quarter-section, quarter-quarter section or other fractional section lines of the United States public land surveys, as established by law. Where figures are shown on the Zoning Map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road center line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.

#### SUBD 300.5.5 Future Detachment

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

#### SUBD 300.5.6 Additional Regulations

The following SECTIONS (300.6 through 300.13) set forth the allowed uses and dimensional standards that are particular to each district. Additional requirements that are in General Regulations (SECTION 300.14) will also be enforced where applicable. There are also provisions for exceptions and non-conforming lots, uses, and structures herein.

### **SECTION 300.6 F-FLOOD PLAIN DISTRICT**

#### SUBD 300.6.1 Findings of Fact

300.6.1.1 The flood hazard areas of Sibley 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.

300.6.1.2 Methods used to analyze flood hazards. This ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

300.6.1.3 Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in paragraph 300.6.1.1 by provisions contained herein.

#### SUBD 300.6.2 General Provisions

300.6.2.1 Lands to which this SECTION applies. This SECTION shall apply to all lands within the jurisdiction of Sibley County shown on the official zoning map as being located within the boundaries of the floodway, flood fringe, or general flood plain districts.

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

- 1) the Flood Insurance Study for Sibley County prepared by the Federal Emergency Management Agency dated January 6, 1999;
- 2) Flood Insurance Rate Map Panels numbered 270620-0180 (c) and 270620-0190 (c), both dated January 6, 1999; and
- 3) Flood Insurance Rate Map Panels numbered 270620-0050 (b), 270620-0075 (b), 270620-0090 (b), 270620-0095 (b), and 270620-0175 (b), all of which are dated January 6, 1988. The Official Zoning Map shall be on file in the Office of the Zoning Administrator and the County Auditor.

300.6.2.3 Regulatory flood protection elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

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

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

reasonable opportunity to present their case to the Board and to submit technical evidence.

- 300.6.2.6 This paragraph intentionally left blank.
- 300.6.2.7 Abrogation and greater restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 300.6.2.8 Warning and disclaimer of liability. This ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of Sibley County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- 300.6.2.9 Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SUBD. 300.6.3. Subdistricts.

There shall be three subdistricts within the Flood Plain District, namely: Floodway District (FW), Flood Fringe District (FF), and General Flood Plain District (GFP).

- 300.6.3.1 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map.
- 300.6.3.2 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe shall constitute those areas shown on the Flood Insurance Rate Map as being within Zone AE but being located outside of the floodway.
- 300.6.3.3 General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map.
- 300.6.3.4 Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain

Districts, all uses not listed as permitted uses or conditional uses as provided in SUBD 300.6.4, 300.6.5, and 300.6.6 that follow, shall be prohibited. In addition:

- a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically SUBD 300.6.9;
- b. Modification, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically SECTION 300.17;
- c. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in SECTIONS 300.15, 300.17 and 300.19 of this Ordinance.
- d. Other additional regulations are found in SECTIONS 300.15, 300.17 and 300.19 of this Ordinance.

#### SUBD 300.6.4 Floodway District (FW)

- 300.6.4.1 Permitted Uses: The following are permitted uses in the floodway district.
- a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - b. Industrial-commercial loading areas, parking areas, and airport landing strips.
  - c. 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.
  - d. Residential lawns, gardens, parking areas, and play areas.
- 300.6.4.2 Standards for Floodway Permitted Uses:
- a. The use shall have a low flood damage potential.
  - b. The use shall be permissible in the underlying zoning district if one exists.
  - c. 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.
- 300.6.4.3 Conditional Uses: The following are conditional uses in the floodway district:

- a. Structures accessory to the uses listed in Paragraph 300.6.4.1 above and the uses listed in subparts b to h below.
- b. Extraction and storage of sand, gravel and other materials
- c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- d. Railroads, streets, bridges, utility transmission lines, and pipelines.
- e. Storage yards for equipment, machinery, or materials.
- f. Placement of fill.
- g. 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 this ordinance.
- h. 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 less than the 10-year frequency flood event.

300.6.4.4

Standards for Floodway Conditional Uses:

- a. 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 reaches affected.
- b. All floodway Conditional Use requests shall be subject to the procedures and standards contained in SECTION 300.15 of this Ordinance.
- c. The Conditional Use shall be permissible in the underlying zoning district if one exists.
- d. Fill:
  - 1) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
  - 2) 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.
  - 3) As an alternative, and consistent with Subpart (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be recorded or title registered with the property in the Office of the County Recorder or Registrar.
- e. Accessory Structures:

- 1) Accessory structures shall not be designed for human habitation.
- 2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood water.

- (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.

- 3) 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.

f. Storage of Materials and Equipment:

- 1) 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.

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

g. 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. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

h. 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.

## SUBD 300.6.5 Flood Fringe District (FF)

300.6.5.1 Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for flood fringe permitted uses listed in paragraph 300.6.5.2 below and the standards for all flood fringe uses listed in Paragraph 300.6.5.5 below.

### 300.6.5.2 Standards for Flood Fringe Permitted Uses:

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with the provisions of Paragraph 300.6.4.4, Subpart e(3).
- c. 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 subpart a, above of this ordinance.
- d. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- e. The provisions of Paragraph 300.6.5.5 below of this Ordinance shall apply.

300.6.5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Paragraph 300.6.5.2, Subparts a and b, above or any use of land that does not comply with the standards in Paragraph 300.6.5.2, Subparts c and d, above shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Paragraph 300.6.5.4 below and SECTION 300.15 of this Ordinance.

### 300.6.5.4 Standards for Flood Fringe Conditional Uses:

- a. 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 vehicles, building access or storage.

The above-noted alternative elevation methods are subject to the following additional standards:

- 1) 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.

- 2) 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 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.

b. Basements, as defined by Paragraph 300.4.2.6 of this Ordinance, shall be subject to the following:

- 1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
- 2) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry

flood proofed in accordance with Paragraph 300.6.5.4, Subpart c, below of this Ordinance.

c. 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 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.

d. When at any 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 county is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event.

The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

e. Storage of Materials and Equipment:

- 1) 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.
- 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

f. The provisions of Paragraph 300.6.5.5 below of this Ordinance shall also apply.

#### 300.6.5.5 Standards for All Flood Fringe Uses:

a. 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.

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

c. 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 Subpart b above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

d. 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.

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

f. Standards for travel trailers and travel vehicles are contained in SUBD 300.6.9 of this SECTION.

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

#### SUBD 300.6.6 General Flood Plain District (GPP)

300.6.6.1 Permissible Uses: The following are permitted uses in the general flood plain district:

a. The uses listed in Paragraph 300.6.4.1 of this Ordinance shall be permitted uses.

b. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Paragraph 300.6.6.2 below. SUBD 300.6.4 shall apply if the proposed use is in the Floodway District and SUBD 300.6.5 shall apply if the proposed use is in the Flood Fringe District.

300.6.6.2 Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.

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

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

2) Plan (surface view) showing 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.

3) 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.

b. 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:

1) Estimate the peak discharge of the regional flood.

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

3) 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.

c. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analysis to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of SUBDs 300.6.4 and 300.6.5 of this Ordinance.

#### SUBD 300.6.7 Subdivisions

- 300.6.7.1 Review Criteria: No land shall be subdivided for development, which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All development 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 development in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required drawings and platting documents.
- 300.6.7.2 Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in SUBD 300.6.6, 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 development site.
- 300.6.7.3 Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SUBD 300.6.8 Public Utilities, Railroads, Roads and Bridges

- 300.6.8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
- 300.6.8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with SUBDs 300.6.4 and 300.6.5 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.
- 300.6.8.3 On-site Sewage Treatment and Water Supply Systems: On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided:
- a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems;
  - b) 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; and
  - c) Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section;

SUBD 300.6.9 Manufactured Homes and Manufactured Home Parks and Placement of Travel Vehicles

- 300.6.9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by SUBD 300.6.7 of this Ordinance.
- 300.6.9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with SUBD 300.6.5 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not

provided in accordance with Paragraph 300.6.5.5, subpart a, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

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

300.6.9.3 Travel trailers and travel vehicles that do not meet the exemption criteria specified in subpart a below shall be subject to the provisions of this Ordinance and as specifically spelled out in Subparts c to d below.

a. 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 Subpart b below and further they meet the following criteria:

- 1) Have current licenses required for highway use.
- 2) 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.
- 3) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

b. Areas Exempted for Placement of Travel/Recreational Vehicles:

- 1) Individual lots or parcels of record.
- 2) Existing commercial recreational vehicle parks or campgrounds.
- 3) Existing condominium type associations.

c. Travel trailers and travel vehicles exempted in subpart a above 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 restricts specified in Paragraph 300.6.5.5, Subpart a of this Ordinance.

d. 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:

- 1) 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 Paragraph 300.6.5.5, Subpart a 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.

2) All new or replacement travel trailers or travel vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of SECTION 300.15 of this 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 Paragraph 300.6.8.3 of this Ordinance.

## **SECTION 300.7 S-1 SPECIAL PROTECTION SHORELANDS DISTRICT**

### **SUBD 300.7.1 Purpose**

The intent of the S-1 SPECIAL PROTECTION SHORELAND DISTRICT is to guide the wise development, continued agricultural uses and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values, and the general health, safety and welfare of all public waters in the unincorporated areas of the County. Further, the purpose of this district is to manage areas unsuitable for development due to wet soils, steep slopes, or large areas of exposed bedrock; and to manage areas of unique natural and biological characteristics in accordance with compatible uses.

### **SUBD 300.7.2 Permitted Uses**

- 300.7.2.1 Agricultural, including farm dwellings and agricultural buildings on existing sites, but not including either agricultural or commercial feedlots.
- 300.7.2.2 One family dwellings on existing sites.
- 300.7.2.3 Parks, waysides, historical sites, wildlife management, preserves, trails (not overnight camping)
- 300.7.2.4 Flood control and watershed structures.

- 300.7.2.5 Home occupations, Level 1.
- 300.7.2.6 Accessory uses.
- 300.7.2.7 One family dwellings on new site as regulated in SUBD. 300.14.5 and 300.14.17.
- 300.7.2.8 Essential services, as regulated by paragraph 300.4.1.2c and SUBD. 300.17.2.
- 300.7.2.9 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.7.3 Conditional Uses

- 300.7.3.1 Temporary dwellings, Accessory dwellings, and extra farm dwellings.
- 300.7.3.2 Non-residential structures used solely in conjunction with raising wild animals, fur bearing animals or fish provided the structures are of a design approved by the county board as being compatible with other general allowable uses of the district.
- 300.7.3.3 Additions to existing feedlots.
- 300.7.3.4 Farming colonies, but no new feedlots.
- 300.7.3.5 Home occupations, Level 2.
- 300.7.3.6 Campgrounds, and organized group camps as regulated by Shoreland PUD standards.
- 300.7.3.7 Outdoor related commercial recreation, including golf courses, shooting ranges, riding stables but not swimming pools.
- 300.7.3.8 Any open pit, excavation or impoundment of water - 5 feet and deeper.
- 300.7.3.9 Hunting shacks.
- 300.7.3.10 Bed and Breakfast Facility.
- 300.7.3.11 Churches, cemeteries, schools and public buildings
- 300.7.3.12 Kennels

- 300.7.3.13 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.7.3.14 Any agricultural related building not located on an existing site.
- 300.7.3.15 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.7.4 District Regulations

300.7.4.1 Height Regulations

- a. No Agricultural structure shall exceed 150 feet in height.
- b. No Other structure shall exceed 35 feet in height.

300.7.4.2 Front Yard Regulations:

- a. There shall be a minimum front yard setback of seventy-five (75) feet from the right of way line of any public road or highway and in no case less than one hundred twenty-five (125) feet from the centerline.
- b. For lots with a narrow driveway access and a building site area meeting the lot width and depth regulations hereafter [a “flag lot” or a “land-locked lot” with easement access only] where the access exceeds the seventy-five (75) feet and one hundred twenty-five (125) feet setback set forth in the preceding part, there shall be a minimum front yard setback of twenty (20) feet from the point where the driveway access enters the building site area. The zoning administrator shall decide this location.

300.7.4.3 Side Yard Regulations:

There shall be a side yard having a width of not less than 20 feet on each side of a building.

300.7.4.4 Rear Yard Regulations

There shall be a rear yard having a depth of not less than 40 feet.

300.7.4.5 Lot Area Regulations:

- a. New lots shall contain a minimum of 5 acres
- b. Lots using existing sites shall contain a minimum of 2 acres
- c. Lots for extra farm dwellings shall contain a minimum of 2 acres

300.7.4.6 Lot Width and Depth Regulations

Every lot shall have a minimum width of not less than 200 feet at the building setback line and shoreline and have a minimum depth of 200 feet.

300.7.4.7 Dwelling Regulations

All dwellings, except temporary dwellings, must be 20 feet wide and on a permanent foundation.

300.7.4.8 On-site Sewage Treatment System Regulations:

On-site sewage treatment systems, including drain fields, must be set back from all property lines and right of way as provided in Paragraph 300.14.3.5.2.5.

**SECTION 300.8 S-2 RESIDENTIAL-RECREATION SHORELAND DISTRICT**

SUBD 300.8.1 Purpose

The intent of the S-2 RESIDENTIAL-RECREATION SHORELAND DISTRICT is to guide continued agriculture uses and to preserve areas, which have natural characteristics suitable for both passive and active recreational usage. Also it is the intent of this district to manage areas suitable for residential development of a low density nature.

SUBD 300.8.2 Permitted Uses

300.8.2.1 Parks, waysides, historical sites, wildlife management, preserves, trails (not including overnight camping).

300.8.2.2 Agriculture, including farm dwellings and agricultural buildings on existing sites, but not including either agricultural or commercial feedlots.

300.8.2.3 One family dwellings on existing sites.

300.8.2.4 Flood control and watershed structures.

300.8.2.5 Home occupations, Level 1

300.8.2.6 Accessory uses.

300.8.2.7 Essential services, as regulated by paragraph 300.4.1.c and SUBD. 300.17.2.

300.8.2.8 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.8.3 Conditional Uses

300.8.3.1 Temporary dwellings, Accessory dwellings, and extra farm dwellings.

300.8.3.2 Residential planned unit developments.

300.8.3.3 Home occupations, Level 2.

- 300.8.3.4 Outdoor related commercial recreation including golf courses, stables and swimming pools but not shooting ranges.
- 300.8.3.5 Churches, cemeteries, school and public buildings.
- 300.8.3.6 Campgrounds, and organized camps as regulated by Shoreland PUD standards.
- 300.8.3.7 Hunting shacks.
- 300.8.3.8 Bed and breakfast facility.
- 300.8.3.9 Additions to existing feedlots.
- 300.8.3.10 Farming colonies but no new feedlots.
- 300.8.3.11 Kennels
- 300.8.3.12 Medical facilities and nursing homes.
- 300.8.3.13 Open pit, excavation or impoundment of water - 5 feet and deeper.
- 300.8.3.14 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.8.3.15 Any agricultural related building not located on an existing site.
- 300.8.3.16 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.8.4 District Regulations

300.8.4.1 Height Regulations:

- a. No agriculture structures shall exceed 150 feet in height.
- b. No other structure shall exceed 35 feet in height.

300.8.4.2 Front Yard Regulations

- a. There shall be a minimum front yard setback of seventy-five (75) feet from the right of way line of any public road or highway and in no case less than one hundred twenty-five (125) feet from the centerline.
- b. For lots with a narrow driveway access and a building site area meeting the lot width and depth regulations hereafter [a “flag lot” or a “land-locked lot” with easement

access only] where the access exceeds the seventy-five (75) feet and one hundred twenty-five (125) feet setback set forth in the preceding part, there shall be a minimum front yard setback of twenty (20) feet from the point where the driveway access enters the building site area. The zoning administrator shall decide this location.

#### 300.8.4.3 Side Yard Regulations

There shall be a side yard having a width of not less than 20 feet on each side of a building.

#### 300.8.4.4 Rear Yard Regulations

There shall be a rear yard having a depth of not less than 40 feet.

#### 300.8.4.5 Lot Area Regulations:

- a. New lots shall contain a minimum of 5 acres.
- b. Lots using existing sites shall contain a minimum of 2 acres.
- c. Lots for extra farm dwellings shall contain minimum of 2 acres.

#### 300.8.4.6 Lot Width and Depth Regulations

Every lot shall have a minimum width of not less than 200 feet at setback line and shoreline and have a minimum depth of 200 feet.

#### 300.8.4.7 Dwelling Regulations

All dwellings, except temporary dwellings, must be 20 feet wide and on a permanent foundation.

#### 300.8.4.8 On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5.

### **SECTION 300.9 C-CONSERVATION AND AGRICULTURE DISTRICT**

#### SUBD 300.9.1 Purpose

The intent of the C CONSERVATION AGRICULTURE DISTRICT is to provide a district based on topographic, physiographic and soil productivity, that will:

- 300.9.1.1 be protective of the more productive agricultural lands in Sibley County from non-agricultural influences;

300.9.1.2 prevent scattered non-agricultural uses of the more productive agricultural lands in Sibley County;

300.9.1.3 retain areas of natural vegetation that act to buffer critical water and wind erosion areas from agriculturally related activities;

- 300.9.1.4 secure economy in governmental expenditures for public services, utilities and schools;
- 300.9.1.5 deter abuse of water and soil resources; and
- 300.9.1.6 conserve and enhance other natural resources of the county.

SUBD 300.9.2 Permitted uses

- 300.9.2.1 Agriculture, including one farm dwelling per site and agricultural buildings on existing site, but not including agricultural feedlots with 50 or more animal units or commercial feedlots.
- 300.9.2.2 Parks, waysides, historical sites, wildlife management, preserves, trails (not including overnight camping).
- 300.9.2.3 Flood control and watershed structures.
- 300.9.2.4 One-family dwellings on existing sites.
- 300.9.2.5 Communication towers with a height of 150 feet or less.
- 300.9.2.6 Home occupations, level 1
- 300.9.2.7 Accessory uses
- 300.9.2.8 Windpower tower and facilities, as regulated in SUBD. 300.14.18.
- 300.9.2.9 Essential services, as regulated by paragraph 300.4.1.2c and SUBD. 300.17.2.
- 300.9.2.10 One family dwellings on a new site, as regulated in SUBD. 300.4.1.5 and 300.14.17.
- 300.9.2.11 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.9.3 Conditional uses

- 300.9.3.1 Two family dwellings, residential PUD's, temporary dwellings, Accessory dwellings, and extra farm dwellings.

- 300.9.3.2 Outdoor related commercial recreation including golf courses, riding stables, shooting ranges but not swimming pools.
- 300.9.3.3 Kennels.
- 300.9.3.4 Organized group camps and campgrounds.
- 300.9.3.5 Churches, cemeteries, schools and public buildings.
- 300.9.3.6 Home occupations, Level 2.
- 300.9.3.7 Agriculture related business and service and contractor yards.
- 300.9.3.8 Organized Farm colonies
- 300.9.3.9 Any structures higher than 150 feet.
- 300.9.3.10 Agricultural feedlots with 50 or more animal units.
- 300.9.3.11 Extraction of minerals
- 300.9.3.12. Hunting shacks.
- 300.9.3.13 Bed and breakfast facility
- 300.9.3.14 Open pit, excavation or impoundment of water - 5 feet and deeper.
- 300.9.3.15 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.9.3.16 Windpower tower and facilities, as regulated in SUBD.300.14.18
- 300.9.3.17 Wireless Telecommunication Towers and Antennas, as regulated in SUBD. 300.14.20.
- 300.9.3.18 Any agricultural related building not located on an existing site.
- 300.9.3.19 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.9.4 Height, Yard, Area and Lot Width and Depth Regulations

300.9.4.1 Height Regulations:

- a. No agricultural structures shall exceed 150 feet in height.
- b. No other buildings shall exceed thirty-five (35) feet in height

300.9.4.2 Front Yard Regulations:

a. There shall be a minimum front yard setback of seventy-five (75) feet from the right of way line of any public road or highway and in no case less than one hundred twenty-five (125) feet from the centerline.

b. For lots with a narrow driveway access and a building site area meeting the lot width and depth regulations hereafter [a “flag lot” or a “land-locked lot” with easement access only] where the access exceeds the seventy-five (75) feet and one hundred twenty-five (125) feet setback set forth in the preceding part, there shall be a minimum front yard setback of twenty (20) feet from the point where the driveway access enters the building site area. The zoning administrator shall decide this location.

300.9.4.3 Side Yard Regulations:

There shall be a side yard having a width of not less than twenty (20) feet on each side of a building.

300.9.4.4 Rear Yard Regulations:

a. There shall be a rear yard having a depth of not less than forty (40) feet.

300.9.4.5 Lot Area Regulations:

a. New lots shall contain a minimum of 5 acres.

b. Lots using existing sites shall contain a minimum of 2 acres.

c. Lots for extra farm dwellings shall contain a minimum of 2 acres.

d. Two family dwellings shall have lot sizes that are 150 percent larger than the one family lot area requirement.

300.9.4.6 Lot Width and Depth Regulations:

Every lot shall have a minimum width of not less than two hundred (200) feet at the building setback line and a minimum depth of not less than two hundred (200) feet.

300.9.4.7 Dwelling Regulations

All dwellings, except temporary dwellings, must be 20 feet wide and on a permanent foundation.

300.9.4.8 On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5.

## **SECTION 300.10, A-GENERAL AGRICULTURAL DISTRICT**

### **SUBD 300.10.1 Purpose**

The A-GENERAL AGRICULTURAL DISTRICT is intended to provide a district that will:

- 300.10.2.1. allow suitable areas of Sibley County to be retained in agricultural use;
- 300.10.2.2. prevent scattered, non-agricultural development;
- 300.10.2.3. secure economy in governmental expenditures for public services, utilities and schools; and;
- 300.10.2.4. to discourage non-agricultural growth.

### **SUBD 300.10.2 Permitted Uses**

- 300.10.2.1 Agriculture, including one dwelling per site and agricultural buildings on existing sites and agricultural feedlots with less than 600 animal units.
- 300.10.2.2 One-family dwellings on existing sites.
- 300.10.2.3 Parks, waysides, historical sites, wildlife management, preserves and trails (not including overnight camping).
- 300.10.2.4 Communication towers with a height of 150 feet or less.
- 300.10.2.5 Home occupations, Level 1.
- 300.10.2.6 Flood control and watershed structures.
- 300.10.2.7 Road Material Crushing, as regulated by SECTION 300.14 - General Provisions.
- 300.10.2.8 Accessory uses.
- 300.10.2.9 Agricultural related business and service.
- 300.10.2.10 Windpower tower and facilities, as regulated in SUBD. 300.14.18.
- 300.10.2.11 One family dwellings on a new site, as regulated in SUBD. 300.14.5 and 300.14.17.
- 300.10.2.12 Essential services, as regulated by paragraph 300.4.1.2c. and SUBD. 300.17.2.
- 300.10.2.13 Solar energy systems, as regulated in SUBD 300.14.21

300.10.2.14 Offsite manure stockpiling pursuant to Minnesota Rules 7020.2125, subparts 1 to 3 and subsequent amendments thereto [short-term stockpiling].

SUBD 300.10.3 Conditional Uses

300.10.3.1 Outdoor related commercial recreation, including golf courses, riding stables, shooting ranges but not commercial swimming pools.

300.10.3.2 Organized group camps and campgrounds.

300.10.3.3 Temporary dwellings, Accessory dwellings, and extra farm dwellings.

300.10.3.4 Churches, cemeteries, schools and public buildings.

300.10.3.5 Home occupations, Level 2.

300.10.3.6 Open pit, excavation or impoundment of water - 5 feet and deeper

300.10.3.7 Agricultural feedlots with 600 or more animal units, commercial feedlots, earthen liquid storage basins and offsite manure storage not meeting the definition of an offsite manure stockpile.

300.10.3.8 Agriculture related industry.

300.10.3.9 Kennels

300.10.3.10 Any structures over 150 feet in height.

300.10.3.11 Extraction of minerals.

300.10.3.12 Medical facilities and nursing homes.

300.10.3.13 Organized Farm Colonies.

300.10.3.14 Bed and breakfast facility.

300.10.3.15 Composting facility, subject to the regulations in SUBD. 300.14.11.

300.10.3.16 Contractor yards

300.10.3.17 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].

300.10.3.18 Windpower tower and facilities, as regulated in SUBD. 300.14.18.

300.10.3.19 Wireless Telecommunications Towers and Antennas, as regulated in SUBD. 300.14.20.

300.10.3.20 An agricultural related building not located on an existing site.

300.10.3.21 Solar energy systems, as regulated in SUBD 300.14.21

#### SUBD 300.10.4 Height, Yard, Area and Lot Width and Depth Regulations

##### 300.10.4.1 Height Regulations.

- a. No agricultural structures shall exceed 150 feet in height.
- b. No other buildings shall exceed 35 feet in height.

##### 300.10.4.2 Front Yard Regulations:

- a. There shall be a minimum front yard setback of seventy-five (75) feet from the right of way line of any public road or highway and in no case less than one hundred twenty-five (125) feet from the centerline.
- b. For lots with a narrow driveway access and a building site area meeting the lot width and depth regulations hereafter [a “flag lot” or a “land-locked lot” with easement access only] where the access exceeds the seventy-five (75) feet and one hundred twenty-five (125) feet setback set forth in the preceding part, there shall be a minimum front yard setback of twenty (20) feet from the point where the driveway access enters the building site area. The zoning administrator shall decide this location.

##### 300.10.4.3 Side Yard Regulations:

There shall be a side yard having a width of not less than twenty (20) feet on each side of a building.

##### 300.10.4.4 Rear Yard Regulations:

There shall be a rear yard having a depth of not less than forty (40) feet.

##### 300.10.4.5 Lot Area Regulations:

- a. New lots shall contain a minimum of 40 acres.
- b. Lots using existing sites shall contain a minimum of 2 acres.
- c. Lots for extra farm dwellings shall contain a minimum of 2 acres.

##### 300.10.4.6 Lot Width and Depth Regulations:

Every lot shall have a minimum width of not less than two hundred (200) feet at the building setback line and a minimum depth of not less than two hundred (200) feet.

300.10.4.7 Dwelling regulations

All dwellings, except temporary dwellings, must be 20 feet wide and on a permanent foundation.

300.10.4.8 On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5.

## **SECTION 300.11 R-SUBURBAN RESIDENCE DISTRICT**

### **SUBD 300.11.1 Purpose**

The R-1 SUBURBAN RESIDENCE DISTRICT is intended to provide a district that will allow medium density residential development and on-lot utilities in areas where municipal utilities are not available in the near future and where an agricultural/residential mixed land use pattern exists or growth trends indicate, due to the topography and recent growth patterns.

### **SUBD. 300.11.2. Permitted Uses.**

The following uses shall be permitted within the R-1 RESIDENCE DISTRICT:

- 300.11.2.1 One family detached dwellings.
- 300.11.2.2 Parks, waysides, historical sites, wildlife management, preserves and trails (not including overnight camping.)
- 300.11.2.3 Home occupations, level 1.
- 300.11.2.4 Flood control and watershed structures.
- 300.11.2.5 Agriculture, except feedlots.
- 300.11.2.6 Accessory uses.
- 300.11.2.7 Essential services, as regulated by paragraph 300.4.1.2c and SUBD. 300.17.2

300.11.2.8 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.11.3 Conditional Uses

300.11.3.1 Temporary dwellings, Accessory dwellings, and two family dwellings.

300.11.3.2 Churches, schools and cemeteries

300.11.3.3 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD 300.17.2 and public buildings.

300.11.3.4 Home occupations, level 2

300.11.3.5 Commonly owned swimming pools and tennis courts

300.11.3.6 Railroad rights-of-way, but not including railroad yards.

300.11.3.7 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.11.4 District Regulations

300.11.4.1 Height Regulations:

No buildings hereafter erected or altered shall exceed thirty-five (35) feet in height.

300.11.4.2 Front Yard Regulations:

a. There shall be a minimum front yard setback of seventy-five (75) feet from the right of way line of any public road or highway and in no case less than one hundred twenty-five (125) feet from the centerline, except for local interior subdivision roads the minimum front yard setback shall be twenty-five (25) feet.

b. For lots with a narrow driveway access and a building site area meeting the lot width and depth regulations hereafter [a “flag lot” or a “land-locked lot” with easement access only] where the access exceeds the seventy-five (75) feet and one hundred twenty-five (125) feet setback set forth in the preceding part, there shall be a minimum front yard setback of twenty (20) feet from the point where the driveway access enters the building site area. The zoning administrator shall decide this location.

300.11.4.3 Side Yard Regulations:

There shall be a minimum interior side yard of ten (10) feet.

300.11.4.4 Rear Yard Regulations:

There shall be a rear yard having a depth of not less than forty (40) feet.

300.11.4.5 Lot Area Regulations:

Every lot shall contain area of not less than 2 acres.

300.11.4.6 Lot Width and Depth Regulations:

Every lot or plot of land on which a dwelling is erected shall contain a width of not less than 200 feet and a depth of not less than 200 feet.

300.11.4.7 Dwelling Regulations

All dwellings, except temporary dwellings, must be 20 feet wide and on a permanent foundation.

300.11.4.8 Covenant Regulations.

All covenants, restrictive covenants or other restrictions to be placed against real property within the R-SUBURBAN RESIDENCE DISTRICT at the time of platting or subdivision, or within two (2) years thereof, shall be submitted for approval to the County Planning Commission and County Board, and upon approval can be recorded.

300.11.4.9 On-site Sewage Treatment System Regulations:

On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5; except the setback shall be ten (10) feet for those plats which have designated thereon designated soil treatment areas (DSTA's) as provided by Paragraph 320.4.2.2, Part b, Subpart 7) of the Subdivision Regulations.

SUBD. 300.11.5 Planned Unit Developments and Cluster Developments

300.11.5.1 Purpose

The purpose of this Subdivision is to make provision for planned unit projects within the R-SUBURBAN RESIDENCE DISTRICT and cluster development projects in the C-CONSERVATION AGRICULTURE DISTRICT AND A-GENERAL AGRICULTURE DISTRICT. These projects provide for larger tracts of land under single or unified ownership developed with community or public sewer and water systems, such residential subdivision projects to allow modification of individual lot area and width requirements

and to allow multiple dwellings, manufactured home parks and cluster developments. Residential subdivision unit projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the Sibley County Subdivision Regulations. Such project shall be consistent with the intent and purpose of this ordinance and shall not adversely affect the property adjacent to the land included in the project.

#### 300.11.5.2 Dimensional Standards and Regulations

a. The minimum area of land to be included in a planned unit development project shall be twenty (20) acres in the R-SUBURBAN RESIDENCE DISTRICT. The minimum area of land to be included in a cluster development project in the C-CONSERVATION AGRICULTURE DISTRICT shall be twenty (20) acres and in the A-GENERAL AGRICULTURE DISTRICT shall be eighty (80) acres.

b. The planned unit development project and the cluster development project in the C-CONSERVATION AGRICULTURE DISTRICT shall be served by public or community water systems and by public or community sewer systems.

c. With the exception of individual lot area, frontage requirements, and cluster development bonus provisions, the planned unit development project shall conform to the density requirements of the R-SUBURBAN RESIDENCE DISTRICT, two (2) acres.

d. The planned unit development project, not employing clustering, shall have a minimum individual lot size of:

- 1) A front yard setback of not less than fifty (50) feet from the right-of-way line of any public roadway except that it shall be one hundred fifty (150) feet from any expressway.
- 2) A side yard of not less than ten (10) feet.
- 3) A minimum rear yard of not less than forty (40) feet in depth.
- 4) A width of not less than sixty (60) feet for single family and ninety (90) feet for multiple or two (2) family dwellings.
- 5) An average depth of not less than one hundred twenty (120) feet for a single family and multiple or two (2) family dwellings.
- 6) An area of not less than:
  1. Nine thousand (9,000) square feet for single family dwellings.
  2. Nine thousand (9,000) square feet for the first unit plus two

thousand (2,000) square feet for each additional unit in a multiple dwelling.

e. The following provisions shall apply to a cluster development project:

- 1) No minimum width or depth of lot shall apply.
- 2) A minimum separation of fifteen (15) feet shall be provided between all principal structures.
- 3) A minimum yard or common open space of at least thirty (30) feet in depth shall be provided as measured from all public or private streets and from side and rear lot lines of the entire cluster development.
- 4) Each lot shall have a minimum access of eighteen (18) feet to a public or private street. Such access may be shared with other lots.
- 5) More than one principal structure may be placed on one lot.
- 6) Except as provided in paragraph 7) below, the maximum number of dwelling units allowed for a cluster development shall not exceed the number of dwelling units otherwise permitted for the zoning district in which the parcel is located. The number of permitted dwelling units on a site shall be calculated in the following manner:
  - a) Measure the gross area of the proposed cluster development site in acres and tenths of an acre.
  - b) Subtract from the gross area determined in subparagraph (a) the area of public and/ or private streets, and other publicly dedicated improvements, measured in acres and tenths of an acre, excluding designated open space, flood plains and/ or wetlands. The remainder shall be the net buildable area.
  - c) Convert the net buildable area from acres to square feet, using the equivalency of 43,560 square feet = 1 acre.
  - d) Divide the net buildable area by the by the smallest minimum lot size (in square feet) per unit for a dwelling unit permitted in the zoning district. This figure shall be rounded to the nearest lower number to establish the maximum number of dwelling units to be permitted in the cluster development.
- 7) The County Planning Commission may approve an increase of up to twenty-five (25) percent of the maximum number of dwelling units in the cluster development, as calculated in paragraph 6)

above, if:

- a) The percent of density bonus is no greater than the percent of the gross area of the cluster development that is both set aside and conveyed as common open space and made accessible to the public.
- 8) Not less than forty (40) percent of the total acreage in the cluster development, including developable and undevelopable land shall be designated as common open space for natural habitat, active or passive recreation and/or conservation or preservation, including conservation for agricultural and forestry uses.
- a) Designated open space shall be connected throughout the development to provide a continuous open space system.
  - b) No more than fifty (50) percent of the designated open space shall be floodplains and/or wetlands.
  - c) Access shall be provided to designated active or passive recreation areas or open space or natural areas from one or more streets in the development.
  - d) Access is not required if designated open space is to remain in active agriculture or forestry or if the natural areas contain sensitive habitat where public access should be restricted.
  - e) Designated open space shall be surveyed and subdivided as a separate parcel or parcels.
  - f) Designated open space must be restricted from further development by a permanent conservation easement (in accordance with Minnesota Statutes) running with the land.
  - g) The permanent conservation easement may be held by the following entities, but in no case may the holder of the conservation easement be the same as the owner of the underlying fee:
    - 1.) Sibley County, or other governmental agency; and/ or
    - 2.) A private, non-profit organization that has been designated by the Internal Revenue Service as a qualifying 501(c) (3) of the Internal Revenue Code.
- 9) The permanent conservation easement must specify:
- a) what entity will maintain the designated open space;
  - b) the purposes of the conservation easement;
  - c) the legal description of the land under the easement:

- d) the restrictions on the land;
  - e) to what standards the open space will be maintained;
  - f) who will have access to the designated open space.
- 10) Ownership of the underlying fee of each designated open space parcel, subject to the permanent conservation easement, may be held by:
- a) A common ownership association which owns non-open space land within the development and in which membership is in association by all property owners shall be mandatory;
  - b) An individual who will use the land in accordance with the permanent conservation easement;
  - c) Sibley County, or other governmental agency;
  - d) A private, non-profit organization that has been designated by the Internal Revenue Service as a qualifying 501(c) (3) of the Internal Revenue Code; or
  - e) A combination of entities in subsection a-d above.

### 300.11.5.3 Administrative Procedure

a. The proponents of a planned unit development and/or cluster development shall submit a preliminary subdivision plat and a site plan, the permanent conservation easement (for cluster developments) along with the application for Conditional Use Permit to the County Planning Commission and County Board. Such preliminary plat, site plan and permanent conservation easement shall conform to the provisions of this Ordinance and the County Subdivision Regulations. Such site plan shall show:

- 1) Proposed public or community sanitary sewer and water system, including size, type and capacity.
- 2) Proposed roadway, type and capacity of paving.
- 3) The proposed site and existing adjacent development.
- 4) Size and location of buildings.
- 5) Landscaping.
- 6) Parking areas and arrangement of stalls.
- 7) Site and lot dimensions.
- 8) Allocation and disposition of park and open space.
- 9) Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings

other than single and two family units.  
10) Location, type size and signing.

b. If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a resubmission to, and approval by, the County Planning Commission and the County Board.

c. If the Conditional Use Permit is approved, the final plat shall be submitted to the County in accordance with the County Subdivision Regulations and the provisions of this Ordinance.

## **SECTION 300.12 B-HIGHWAY SERVICE BUSINESS DISTRICT**

### **SUBD 300.12.1 Purpose**

The B-1 HIGHWAY SERVICE BUSINESS DISTRICT is intended to provide a district that will allow compact and convenient limited highway-oriented business, closely related to existing urban areas and major highways in the county and at standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

### **SUBD 300.12.2 Permitted Uses**

The following uses shall be permitted within the B-1 BUSINESS DISTRICT.

- 300.12.2.1 Agriculture.
- 300.12.2.2 Automobile laundries, car wash.
- 300.12.2.3 Automobile service stations for the sale of gasoline, oil and accessories.
- 300.12.2.4 Bowling alleys.
- 300.12.2.5 Drive-in retail stores or service uses.
- 300.12.2.6 Drive-in restaurants or similar uses that provide goods and services to patrons in automobiles.
- 300.12.2.7 Drive-in theater.
- 300.12.2.8 Landscape nursery, garden store.

- 300.12.2.9 Marine and boat sales.
- 300.12.2.10 Miniature golf course or archery or golf driving range.
- 300.12.2.11 Motel, motor hotel or tourist camp.
- 300.12.2.12 Franchised automobile and farm implement dealers.
- 300.12.2.13 Professional office.
- 300.12.2.14 Restaurant, tea room, cafe or tavern.
- 300.12.2.15 Signs and billboards, as regulated in SUBD. 300.14.1.
- 300.12.2.16 Essential services, as regulated by paragraph 300.4.1.2c and SUBD. 300.17.2.
- 300.12.2.17 Solar energy systems, as regulated in SUBD 300.14.21

SUBD. 300.12.3 Conditional Uses

The following uses may be allowed in the B-1 BUSINESS DISTRICT, subject to the provisions of SECTION 15.

- 300.12.3.1 Other highway-oriented business activities of the same general character as listed in SUBD 300.12.2 of this SECTION.
- 300.12.3.2 Warehousing of a type consistent with the character of a highway-oriented business activities.
- 300.12.3.3 Manufactured home parks, as regulated in SUBD 300.14.9.
- 300.12.3.4 Adult establishments, as regulated in SUBD 300.14.19.
- 300.12.3.5 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.12.3.6 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.12.4 District Regulations.

- 300.12.4.1 Height Regulations:

No building shall hereafter be erected or structurally altered to exceed thirty-five (35) feet in height.

300.12.4.2 Front Yard Regulations:

There shall be a minimum front yard setback of seventy-five (75) feet from the right-of-way line of any public road or highway and in no case less than one hundred twenty five (125) feet from the centerline.

300.12.4.3 Side yard Regulations:

- a. There shall be a side yard having a width of not less than fifteen (15) feet on each side of a building.
- b. Except that no building shall be located within a thirty (30) feet of any side lot line abutting a lot in any district other than business or industrial.

300.12.4.4 Rear Yard Regulations:

There shall be a rear yard having a depth of not less than forty (40) feet.

300.12.4.5 Lot Width Regulations:

Every lot or tract shall have a width of not less than one (100) feet abutting a public right-of-way.

300.12.4.6 Lot Coverage Regulations:

Not more than thirty (30) percent of the lot or plot area shall be occupied by buildings.

300.12.4.7 Lot Area Regulations:

Every lot or plot of land on which a structure is erected shall contain an area of not less than two (2) acres.

300.12.4.8 Lot Width and Depth Regulations:

Every lot or plot of land on which a structure is erected shall have a minimum width of not less than two hundred (200) feet at the building setback line and a minimum depth of two hundred (200) feet.

- 300.12.4.9 On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5.

## **SECTION 300.13 I-INDUSTRY DISTRICT**

### SUBD 300.13.1 Purpose

The I INDUSTRY DISTRICT, is intended to provide a district that will allow compact, convenient, limited, highway-oriented industry closely related to existing urban areas in the County and at standards that will not impair the traffic-carrying capabilities of abutting roads and highways. The regulations for the district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

### SUBD 300.13.2 Permitted Uses

The following uses shall be permitted within the I INDUSTRY DISTRICT:

- 300.13.2.1 Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products which conform to the performance standards set forth herein after, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the omission or creation of noise, vibration, smoke dust or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.
- 300.13.2.2 Automobile service stations -- for the retail or wholesale dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building.
- 300.13.2.3 Building material sales.
- 300.13.2.4 Cartage and express facilities.
- 300.13.2.5 Contractors', architects', and engineers' offices, shops, and yards, such as building, cement, electrical, heating, ventilating, and air-conditioning, masonry, painting, plumbing, refrigeration, and roofing.
- 300.13.2.6 Dry-cleaning establishments.
- 300.13.2.7 Dwelling units, for watchmen and their families, located on the premises where they are employed in such capacity.
- 300.13.2.8 Farm implement sales and storage.
- 300.13.2.9 Fuel and ice sales.
- 300.13.2.10 Grain elevators.
- 300.13.2.11 Garages -- for storage, repair, and servicing of motor vehicles.

- 300.13.2.12 Greenhouses -- wholesale.
- 300.13.2.13 Laundries.
- 300.13.2.14 Mail order houses.
- 300.13.2.15 Printing.
- 300.13.2.16 Public utility and service uses, including:
  - a. Bus stations, bus terminals, bus turn-arounds (off-street), bus garages, and bus lots.
  - b. Fire stations.
  - c. Police stations.
  - d. Railroad passenger stations.
  - e. Railroad rights-of-way.
  - f. Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers.
  - g. Utility service substations -- electric, gas, telephone and water.
  - h. Water works, reservoirs, pumping stations, and filtration plants.
- 300.13.2.17 Publishing.
- 300.13.2.18 Radar installations and towers.
- 300.13.2.19 Radio and television studios, stations, and towers, transmitting and receiving.
- 300.13.2.20 Restaurants.
- 300.13.2.21 Signs and billboards as regulated by SUBD. 300.14.1.
- 300.13.2.22 Essential Services Buildings [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.13.2.23 Solar energy systems, as regulated in SUBD 300.14.21

SUBD 300.13.3 Conditional Uses.

The following uses may be allowed in the I INDUSTRY DISTRICT, subject to the provisions of SECTION 300.15.

- 300.13.3.1 Airports and commercial heliports, including aircraft landing fields, runways, flight strips and flying schools, together with hangars, terminal buildings, and other auxiliary facilities.

- 300.13.3.2 Air, railroad, and water freight terminals, railroad switching and classification yards, repair shops and roundhouses.
- 300.13.3.3 Automobile testing grounds.
- 300.13.3.4 Heliports (private).
- 300.13.3.5 Other business and industrial activities of the same general character as listed in SUBD 300.13.2 of this SECTION.
- 300.13.3.6 Sanitary Landfill.
- 300.13.3.7 Salvage yards.
- 300.13.3.8 Electric generating plants.
- 300.13.3.9 Composting Facility, Subject to the Regulations in SUBD. 300.14.11.
- 300.13.3.10 Essential Services Building [see paragraph 300.4.1.2c and SUBD. 300.17.2].
- 300.13.3.11 Solar energy systems, as regulated in SUBD 300.14.21

SUBD. 300.13.4. Height, Yard Lot Width and Lot Coverage Regulations

300.13.4.1 Height Regulations.

No building shall hereafter be erected or structurally altered to exceed two (2) stories or thirty-five (35) feet in height.

300.13.4.2 Front Yard Regulations:

There shall be a minimum front yard setback of seventy-five (75) feet from the right-of-way line of any public road or highway and in no case less than one hundred twenty five (125) feet from the centerline.

300.13.4.3 Side Yard Regulations:

- a. There shall be a side yard having a width of not less than (15) feet on each side of a building.
- b. Except that no building shall be located within fifty (50) feet of any side lot line abutting a district other than business or industrial.

300.13.4.4 Rear Yard Regulations:

- a. There shall be a rear yard having a depth of not less than forty (40) feet;
- b. There shall be a minimum rear yard of one hundred (100) feet of any lot line abutting a district other than business or industrial.

300.13.4.5 Lot Width Regulations:

Every lot or tract shall have a width of not less than one hundred (100) feet abutting a public right-of-way.

300.13.4.6 Lot Coverage Regulations:

Not more than thirty (30) percent of the lot or plot area shall be occupied by buildings.

300.13.4.7 Lot Area Regulations:

Every lot shall contain an area of not less than two (2) acres.

300.13.4.8 Lot Width and Depth Regulations:

Every lot shall have a minimum width of not less than two hundred (200) feet at the building setback line and a minimum depth of two hundred (200) feet.

300.13.4.9 On-site Sewage Treatment System Regulations:

On-site sewage treatment systems, including drain fields, must be set back from all property lines and right-of-ways as provided in Paragraph 300.14.3.5.2.5.

**SECTION 300.14 GENERAL REGULATIONS**

The following General Regulations are in addition to the district regulations and shall regulate all applicable situations irregardless of the zoning district.

SUBD. 300.14.1 Sign Regulations.

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

300.14.1.1 General Provisions

The following regulations shall apply to all signs hereinafter in all DISTRICTS:

- a. Signs shall not be permitted within the public right-of-way or easements, except warning signs for utilities or essential services.

- b. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
- c. Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be repainted when required, to be kept in good condition, and shall be repainted, removed or painted out when, in the opinion of the Board of County Commissioners, they are not so maintained.
- d. No sign shall be placed that resembles any official marker erected by a governmental agency or shall display such words as "stop" or "danger."
- e. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, aid, ingress or egress for any building or structure.
- f. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.
- g. Advertising signs, business signs and name plate signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice of the Board of County Commissioners.
- h. Where a sign illuminated, the source of light shall not shine upon any part of a residence or into any RESIDENCE DISTRICT.
- i. Two laws established in Chapter 828 and 862 of the Minnesota Sessions.
- j. Laws, 1965, regarding advertising devices along State Trunk and the Interstate system of highways further regulate the size and location of signs. These Minnesota standards do not replace but are in addition to the above regulations.

300.14.1.2 In F-Flood Plain Districts, the S-1 and S-2 Shoreland Districts, A-General Agriculture Districts, C-Conservation and Agriculture Districts, and R-Suburban Residence Districts, no signs, advertising signs, or business signs shall be erected except:

- a. A name plat sign or professional name plat sign identifying the owner or occupant of a building or dwelling unit, provided the surface area does not exceed two (2) square feet. Such sign may be illuminated.
- b. A sign pertaining to the lease or sale of a building or property, provided such sign shall not exceed twelve (12) square feet in surface area and shall not be illuminated.
- c. Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:
  - 1) One (1) sign located in the development not to exceed ninety-six (96) square feet in surface area, nor more than fifteen (15) feet in height.
  - 2) Directional signs not to exceed four (4) square feet in surface area, provided that each subdivision shall be limited to one such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets.
- d. A temporary un-illuminated sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, provided such sign shall not exceed ninety-six (96) square feet each surface area and is no more than fifteen (15) feet

in height.

e. One (1) identification sign, not to exceed thirty-five (35) square feet in area, for the following uses: church, school, hospital, parks and recreation areas or similar uses. Such signs shall be solely for the purpose of displaying the name of the use and its activities and services. It may be illuminated, but not flashing.

f. No advertising signs and billboards, except agricultural crop demonstration information signs, shall be permitted within six hundred sixty (660) feet of the center line of any routes designated as scenic routes or parkways on the adopted county highway plan.

g. No advertising signs and billboards, except agricultural crop demonstration information signs, shall be permitted in the F, S-1, S-2, C, A and R - Districts.

h. Business signs for allowed conditional uses, subject to the following provisions:

- 1) No more than (1) freestanding or pylon sign of not more than thirty-five (35) square feet in surface area and no more than thirty (30) feet in height above the average grade.
- 2) No more than (1) flat wall sign, which shall not exceed thirty-five (35) square feet in surface area.
- 3) The sign must be located on or adjacent to the business property.

300.14.1.3 In B-Highway Service Business Districts and I - Industry Districts, no sign, advertising sign or business sign shall be erected, except for the following:

a. Signs as permitted and regulated in Paragraph 300.14.1.2 above.

b. Advertising signs and billboards subject to the following provisions:

- 1) Advertising 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.
- 2) Such advertising structure may not contain more than (2) signs per facing in total of no more than four (4) signs per structure.
- 3) Advertising structures shall be limited to no more than fifty-five (55) feet in total length.
- 4) Advertising structures shall not exceed thirty (30) feet in height above the average grade.
- 5) No advertising sign shall be erected within fifty (50) feet of any adjoining residence.
- 6) No advertising sign shall be permitted within ten (10) feet of any road or highway right-of-way.

c. Business signs subject to the following provisions:

- 1) No more than one (1) free standing or pylon sign of not more than thirty-five (35) square feet in surface area.
- 2) The total surface area of all business signs on a lot shall not exceed the sum of three (3) square feet per lineal foot of lot frontage or twenty (20) percent of the front building face area or three hundred (300) square feet in area, whichever is greater.
- 3) The sign shall be located on or adjacent to the business property.

300.14.1.4 Licenses and Permit Fees:

- a. From and after the effective date of this Ordinance, the owner or other person having control of any sign, except residential, professional and institutional name plate signs and church signs, shall file an application for a permit to maintain, and an annual inspection of such sign. Application for such permits shall be accompanied by detailed plans and such other necessary information to determine the location and compliance with all application regulations, and a permit may be issued upon payment of the required permit fee.
- b. The permit and inspection fee for advertising signs shall be established by resolution of the Board of County Commissioners. Business signs require a permit, but no fee.
- c. All permits shall be renewed every two years.

SUBD. 300.14.2. Parking, Loading, Access, Road and Utility Regulations

300.14.2.1 All uses shall provide enough off-street parking for vehicles in connection with the use, including but not limited to residents, employees, business vehicles and customers.

300.14.2.2 All uses shall provide enough off-street loading facilities for the operation of the use except for temporary situations such as the seasonal backup of trucks waiting to get to the grain elevator.

300.14.2.3 Yards:

On-site parking and loading facilities shall not be subject to the front yard, side yard and rear yard regulations for the use district in which parking is located, except that:

- a. In the B-BUSINESS DISTRICT, no parking or loading space shall be located within ten (10) feet of any property line that abuts a road or highway right-of-way, or RESIDENCE, SHORELANDS, or an AGRICULTURE DISTRICT.
- b. In the I-INDUSTRY DISTRICT, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any RESIDENCE or an AGRICULTURE DISTRICT except for railroad loading areas.

300.14.2.4 Access:

- a. Parking and loading space shall have direct access from a public right-of-way.
- b. The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Adjacent uses shall share one access to the public road and groups of uses shall utilize service roads.

300.14.2.5 Roads and Driveways

- a. Roads serving 3 or more lots shall be built to township standards prior to any zoning permits being issued.

b. Private driveways shall meet the following standards:

- 1) Private driveways with a grade at any point along the centerline which exceeds 4 percent up to 8 percent shall be constructed to address safety and erosion concerns, and a written plan shall be filed with the zoning administrator.
- 2) Private driveways with a grade at any point along the centerline which exceeds 8 percent up to 10 percent shall be designed by a professional registered engineer. The driveway shall be constructed prior to the construction of any structure or building that the driveway will serve, and a certified as-built plan shall be filed with the zoning administrator assuring that the driveway has been built as designed.
- 3) No private driveways with a grade at any point along the centerline which exceeds 10 percent are allowed.
- 4) The county engineer must approve the driveway design if the driveway enters a county road.

#### 300.14.2.6 Utilities

All utilities, except service lines, shall be regulated as provided in the Sibley County Code, including, but not limited to, Paragraphs 300.4.1.2, 300.4.2.36, and 300.17.2.

#### 300.14.2.7 Lighting:

Lighting shall be reflected away from the public right-of-way and nearby or adjacent RESIDENCE, SHORELANDS, or an AGRICULTURE DISTRICT.

### SUBD. 300.14.3 Sanitary Provisions

#### 300.14.3.1 PURPOSE, AUTHORITY AND INTENT

300.14.3.1.1 PURPOSE The purpose of this ordinance is to establish minimum requirements for regulation of individual and mid-size subsurface sewage treatment systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances.

It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources. It establishes:

300.14.3.1.1.1 Minimum standards for and regulation of individual and mid-sized sewage treatment systems (SSTS) in unsewered incorporated and unincorporated areas of Sibley County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,

300.14.3.1.1.2 Requirements for issuing permits for installation, alteration, repair or

expansion of SSTS,

300.14.3.1.1.3 Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,

300.14.3.1.1.4 Standards for upgrade, repair, replacement, or abandonment of SSTS,

300.14.3.1.1.5 Penalties for failure to comply with these provisions,

300.14.3.1.1.6 Provisions for enforcement of these requirements, and

300.14.3.1.1.7 Promotes the health, safety and welfare of the public pursuant to the Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82 and in furtherance of county policy and the County Shoreland Zoning Ordinance.

300.14.3.1.2 INTENT The intent of this SUBDIVISION shall include the following:

300.14.3.1.2.1 The protection of lakes, rivers and streams, wetlands, and groundwater in Sibley County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County in perpetuity.

300.14.3.1.2.2 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.

300.14.3.1.2.3 The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

300.14.3.1.2.4 The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

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

300.14.3.1.3 AUTHORITY This ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08;

Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082; or successor rules.

### 300.14.3.2 DEFINITIONS

300.14.3.2.1 The following words and phrases shall have the meanings ascribed to them in this SUBDIVISION. If not specifically described in this SUBDIVISION, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**a. Authorized Representative:** An employee or agent of the Department.

**b. Board of Adjustment:** A board established by county ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

**c. Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

**d. Cluster System:** A wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**e. County:** Sibley County, Minnesota.

**f. County Board:** The Sibley County Board of Commissioners.

**g. Department:** The Sibley County Property Assessing and Zoning Department, or whichever subsequent department exercises zoning and land use authority under statute

**h. Design Flow:** The daily volume of wastewater for which an onsite/cluster system is designed to treat and discharge.

**i. Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical

separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a currently licensed inspection business.

**j. Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a currently licensed inspection business.

**k. ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

**l. Malfunction:** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

**m. Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

**n. Minor Repair:** The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

**o. MSTs:** A “midsized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

**p. Notice of Noncompliance:** A written document issued by the Department to notifying a system Owner that the Owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this ordinance.

**q. PCA:** Minnesota’s Pollution Control Agency.

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

**s. Record drawings:** A set of drawings which reasonably document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions

during construction of the system.

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

**u. SSTS:** Subsurface sewage treatment system.

**v. State:** The State of Minnesota.

**w. Type I System:** An individual subsurface sewage treatment system designed in accordance with Minnesota Rules 7080.2200 to 7080.2240.

**x. Type II System:** An individual subsurface sewage treatment system designed in accordance with Minnesota Rules 7080.2250 to 7080.2290.

**y. Type III System:** A custom designed individual subsurface sewage treatment system, designed in accordance with Minnesota Rules 7080.2300.

**z. Type IV System:** An individual subsurface sewage treatment system, designed in accordance with Minnesota Rules 7080.2350.

**aa. Type V System:** An individual subsurface sewage treatment system designed in accordance with Minnesota Rules 7080.2400.

### 300.14.3.3 GENERAL PROVISIONS

300.14.3.3.1 **SCOPE** This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this ordinance or by a system that has been permitted by the MPCA.

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

### 300.14.3.3.3 ADMINISTRATION

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

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

300.14.3.3.3.3 CITIES AND TOWNSHIPS Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this ordinance.

300.14.3.3.4 VALIDITY The validity of any part of this ordinance shall not be affected by the invalidity of any other parts of this ordinance where the part can be given effect irrespective of any invalid part or parts.

300.14.3.3.5 LIABILITY Any liability or responsibility shall not be imposed upon the department or agency or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

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

#### 300.14.3.4 GENERAL REQUIREMENTS

##### 300.14.3.4.1 RETROACTIVITY

300.14.3.4.1.1 All SSTS. Except as explicitly set forth in subparagraph 300.14.3.4.1.2, all provisions of this ordinance shall apply to any SSTS regardless of the date it was originally permitted.

300.14.3.4.1.2 Existing Permits Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership.

300.14.3.4.1.3 SSTS on Lots Created Before January 23, 1996. All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080. 2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

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

#### 300.14.3.4.2 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT

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

300.14.3.4.2.2 Bedroom Additions. The owner is allowed ten (10) months from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the following conditions apply:

- A. The DEPARTMENT issues a permit to add a bedroom;
- B. A SSTS inspection is triggered by a bedroom addition permit request; [see paragraph 300.14.3.8.2 and subparagraphs – compliance inspection program]
- C. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.;
- D. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.

300.14.3.4.2.3 Failure to Protect Groundwater. An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500 Subp.4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this ordinance within 36 months of receipt of a Notice of Noncompliance.

300.14.3.4.2.4 Imminent Threat to Public Health or Safety. An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500 Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of

this ordinance within 10 months of receipt of a Notice of Noncompliance. Less time shall be required by the Department based on the time of the year or potential threat to public health and safety. [see Paragraph 300.14.3.8.2 and subparagraphs – compliance inspection program]

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

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

300.14.3.4.4 CLASS V INJECTION WELLS. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

300.14.3.4.5 SSTS PRACTITIONER LICENSING. No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by PCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700.

300.14.3.4.6 PROHIBITION

300.14.3.4.6.1 Occupancy or Use of a Building without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this ordinance.

300.14.3.4.6.2 Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the PCA.

300.14.3.4.6.3 Sewage Discharge to a Well or Boring. It is unlawful for any person to

discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

300.14.3.4.6.4 Discharge of Hazardous or Deleterious Materials. It is unlawful for any person to discharge into any treatment system regulated under this ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

#### 300.14.3.5 SSTS STANDARDS

300.14.3.5.1 STANDARDS ADOPTED BY REFERENCE. The County hereby adopts by this reference Minnesota Rules, Chapters 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statute 115.55.

#### 300.14.3.5.2 AMENDMENTS TO THE ADOPTED STANDARDS

300.14.3.5.2.1 List of More Restrictive Standards.

A. Failure to Protect Groundwater: Failing SSTS shall be upgraded, repaired, replaced, or abandoned by owner within 36 months of receipt of Notice of Noncompliance. (300.14.3.4.2.3)

B. Imminent Threat to Public Health or Safety: SSTS must be upgraded, repaired, replaced, or abandoned by the owner up to 10 months of receipt of Notice of Noncompliance. Less time shall be required by the Department based on the time of year or potential threat to public health and safety. (300.14.3.4.2.4)

C. Bedroom additions require a permit and may trigger a SSTS inspection. (300.14.3.4.2.2 and subparagraphs; 300.14.3.8.2 and subparagraphs)

D. Floor drains in commercial/industrial garages or other commercial/industrial structures that have motorized vehicles parked in and/or repaired in shall have a holding tank that the floor drains empty to. Holding tanks for single family homes will be handled on a case by case basis. (300.14.3.5.2.4)

E. Septic Systems being newly constructed, replaced, or expanded and having a drain field shall have 2 septic tanks or compartments. The second tank shall be at least 50% of the minimum septic tank design capacity. (300.14.3.5.2.6)

F. Minimum septic tank capacity is 1,500 gallons. (300.14.3.5.2.6)

G. Pump discharge line must be within 18 inches of top access cover to allow for access to pump. (300.14.3.5.2.6 B)

H. Any activity involving an existing system that requires a construction permit shall require that the entire system be brought into compliance. (300.14.3.6.2.4)

I. This Item is intentionally left blank.

J. All SSTS existing prior to the effective date of this ordinance that would require an operating permit now, shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS

enforcement action. (300.14.3.6.3.2. C)

K. Transfer of property requires a compliance inspection. (300.14.3.8.2.4)

L. An Operating Permit shall be required of all owners of new holding tanks, MSTs or Type III, IV and V systems or any other system deemed by the Department to require operational oversight. (300.14.3.6.3.1)

M. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within 60 days of system installation or the system is no longer in use. (300.14.3.6.4.2)

N. A Compliance Inspection shall be conducted if the County Environmentalist or assigned agent deems appropriate, such as receiving a complaint or other information or system failure. All complaints and notices shall include contact information from the complainant and be in writing. (300.14.3.8.2.3 A (4))

O. Two (2) designated soil treatment areas (DSTA) are required. (300.14.3.5.2.8)

P. Infield verification required before review and approval of SSTS construction permit. (300.14.3.6.2.5 C)

Q. Department will issue operating permit within fifteen (15) days if application meets requirements. (300.14.3.6.3.3)

R. For new construction applicant or agent must notify Department at least two (2) days before any permitted work and at least twenty-four (24) hours before scheduled inspections. (300.14.3.8.2.2 B)

S. Inspections as noted on permit and additional inspections required by Department are required and an as-built must be submitted within twenty-one (21) days of final inspection. (300.14.3.8.2.2 C)

T. No land use permit or other permit will be issued unless applicant complies with septic provisions. (300.14.3.9.5)

U. There is a mediation process for disputes regarding a SSTS. (300.14.3.9.6)

V. Construction permits are for one (1) year, unless extended. (300.14.3.6.2.8)

W. SSTS management plans must be signed by homeowner or agent of homeowner (300.14.3.7.2.1)

X. Used septic tanks may be utilized. (300.14.3.5.2.6 C)

Y. Requires design report to include reference to a permanent benchmark. (300.14.3.6.2.5 d).

300.14.3.5.2.2 Determination of Hydraulic Loading Rate and SSTS Sizing Options: Table IX entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions” and Table IXa entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

### 300.14.3.5.2.3 Compliance Criteria for Existing SSTS.

- a. SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.
- b. SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4

### 300.14.3.5.2.4 Holding Tanks

300.14.3.5.2.4.1 Holding tanks may be used for single family homes and other buildings with limited water use provided that no other possible alternatives exist. Holding tanks shall meet all requirements in Rule 7080.2290, items A through F, and, Rule 7082.0600 Subp. 2B, (1) through (8).

- A. Holding tanks for single family homes will be handled on a case by case basis and may be used as a temporary system or on existing lots where a drainfield cannot be installed.
- B. Holding tanks for non-dwellings are allowed if no other septic system is on the property and the sewage flow is less than fifty (50) gallons per day.
- C. Floor drains in commercial/industrial garages or other commercial/industrial structures that have motorized vehicles parked in and/or repaired in shall have a holding tank that the floor drains empty to.
  1. Commercial/industrial Garages attached to a house with a floor drain shall have a 1,000 gallon tank as a minimum capacity.
  2. Other commercial/industrial structures with floor drains shall have a 1500 gallon tank as a minimum capacity.
- D. Conditions for holding tanks installed or changes made to holding tanks after the enactment of this ordinance include:
  1. Maintain a current operating permit.
  2. A water meter shall be installed with flow readings available upon request by the Department.
  3. The owner shall maintain a valid contract with a licensed maintenance business meeting all the requirements in Rule 7082.0100 Subp. 3G and the tank shall be pumped per schedule agreed upon the Department. This contract is not required if the owner is a farmer exempt from licensing under Minnesota Statutes,

Section 115.56, sub-division 2, paragraph (6), clause (3).

4. Monitoring and disposal records shall be available upon request by the Department.

E. Failure to meet any of the above requirements shall be cause for the operating permit to be revoked and holding tank to be abandoned per state requirements for abandonment.

300.14.3.5.2.5 Setback Distances. On-site sewage treatment systems, including drain fields, shall be set back at least ten (10) feet from all property lines and right of ways.

300.14.3.5.2.6 Septic Tank Requirements.

A. Septic Systems being newly constructed, replaced, or expanded and having a drain field shall have at least two (2) septic tanks or compartments. The second tank shall be at least 50 percent of the minimum septic tank design capacity. If multiple tanks are already required by the state rules and the second tank is at least 50 percent of the required capacity, no additional tanks or compartments are needed.

Sibley Minimum Septic Tank Capacity

Number of Bedrooms	Tank Capacity (gal)	Tank Capacity (gal) If garbage disposal and/or Lift in the basement
5 or less	1500	2250
6 or 7	2000	3000
8 or 9	2500	3750

B. The pump discharge line shall have a disconnect and the disconnect shall be installed within eighteen (18) inches of the top of the access cover to allow for access to pump.

C. If a septic tank already in use is to be utilized for a new, replacement, or expanded septic system, the tank must be either: pumped, inspected and certified by a licensed SSTS Practitioner; or if the tank was pumped within the last two years and the Inspector is willing to allow use of pumping records and visual observations, certified that way.

300.14.3.5.2.7 Separation Distances.

A. The separation distance from a well to an ISTS shall be as specified in M.S.103I and Minnesota Rules Chapter 4725, as amended.

B. The separation distances from ISTS to designated lakes and rivers shall be the greater of the distances identified in the Sibley County Zoning Ordinance or the distances identified in Minnesota Rules Chapter 6105 or 6120.

C. The specific distance from an ISTS to a Type 3, 4, 5 or 6 wetland shall be seventy-five (75) feet.

300.14.3.5.2.8 Additional Soil Treatment Area Requirements. All lots created after

January 23, 1996, and all lots which are existing as of that date but are undeveloped lots, shall include at least two (2) designated soil treatment areas (DSTA) which can support a Type I soil treatment system. All soil treatment areas shall be protected before, during and after construction on the lot. The method of protection of the additional soil treatment area shall be approved by the building official and may include, but is not limited to, such things as snow fencing, permanent fencing and silt fencing. No building permit shall be issued for construction on any property within the county until at least two (2) designated soil treatment areas that can accommodate Type I systems have been identified and properly protected on all vacant parcels for which a building permit is applied. Before the DSTA sites are designated, there shall be a site evaluation including percolation tests for each site and the site is determined to be appropriate.

300.14.3.5.2.9 Additional Standard for Steep Slope Systems. Systems constructed on greater than 12% slopes and trench systems constructed on greater than 18% slopes shall be subject to review and approval by the Planning and Zoning Commission and County Board.

300.14.3.5.2.10 Septage Disposal and Treatment. Domestic septage disposal and treatment standards shall comply with U.S. Environmental Protection Agency rules as found in 40 CFR Part 503 entitled “Standards for the Use or Disposal of Sewage Sludge.” Land spreading or surface application shall not include discharge of septage to one spot from a non-moving vehicle. Any such discharge is considered illegal disposal of septage.

### 300.14.3.5.3 VARIANCES

300.14.3.5.3.1 Variance Requests. A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures. The variance process and procedures found in Section 300.19 of the Code of Ordinances will be used

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

### 300.14.3.6 SSTS PERMITTING

300.14.3.6.1 PERMITS REQUIRED. It is unlawful for any person to construct, install, modify, replace, or operate a subsurface sewage treatment system without the appropriate permit from the Department. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant’s responsibility to obtain any other required permit.

300.14.3.6.2 CONSTRUCTION PERMIT. A Construction Permit shall be obtained by the property owner or an agent of the property owner from the county prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this ordinance by appropriately certified and/or licensed practitioner(s).

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

300.14.3.6.2.2 Activities Not Requiring a Permit. A Construction Permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

300.14.3.6.2.3 Construction Permit Required to Obtain Building Permit. For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a building or land use permit may be issued by the Department, EXCEPT AS FOLLOWS:

a. If the application for a building or land use permit is made between November 1 and April 30, the applicant can obtain the building or land use permit upon providing a soils map and a site map, and upon providing a winter agreement to obtain the SSTS permit by the following June 1<sup>st</sup>.

300.14.3.6.2.4 Conformance to Prevailing Requirements. Any activity involving an existing system that requires a Construction Permit shall require that the entire system be brought into compliance with this ordinance.

300.14.3.6.2.5 Permit Application Requirements. Construction Permit applications shall be made on forms provided by the DEPARTMENT and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through E below.

A. Name, mailing address, telephone number, and email address.

B. Property Identification Number and address or other description of property location.

C. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730. An infield verification of the periodically saturated soil or

bedrock at the proposed soil treatment and dispersal sites shall be conducted by the Department and Designer together on site prior to the review and approval of the permit.

D. Design Report as described in Minnesota Rules, Chapter 7080.2430. The Design Report shall include reference to a permanent benchmark, such as, corner of dwelling, top of well casing, any existing structure, survey monument or corner monument.

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

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

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

300.14.3.6.2.8 Permit Expiration. The Construction Permit is valid for a period of no more than one (1) year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

300.14.3.6.2.9 Extensions and Renewals. The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of

no more than six (6) months.

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

300.14.3.6.2.11 Suspension or Revocation. The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or

function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.

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

### 300.14.3.6.3 OPERATING PERMIT

300.14.3.6.3.1 SSTS Requiring an Operating Permit. An Operating Permit shall be required of all owners of new holding tanks, MSTS or Type III, IV, or V Systems. Sewage shall not be discharged to a holding tank, MSTS or Type III, IV, or V Systems until the DEPARTMENT certifies that the MSTS, holding tank, or Type III, IV, or V Systems was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, or Type III, IV, or V Systems and a valid Operating Permit is issued to the owner.

#### 300.14.3.6.3.2 Permit Application Requirements.

A. Application for an Operating Permit shall be made on a form provided by the DEPARTMENT including:

- (1) Owner name, mailing address, telephone, and email address
- (2) Construction Permit reference number and date of issue
- (3) Final record drawings of the treatment system
- (4) All electrical installations shall be inspected by a certified state inspector
- (5) Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

B. Monitoring and Disposal Contract. Owners of holding tanks shall provide to the DEPARTMENT a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with *Minnesota Rules, Chapter 7082.0100, Subp. 3G*. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, section 115.56, subdivision 3, paragraph (b), clause (3).

C. SSTS existing prior to the effective date of this ordinance. All SSTS existing prior to the effective date of this ordinance shall require an operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

300.14.3.6.3.3 Department Response. The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and

servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within fifteen (15) working days of receipt of the permit application.

300.14.3.6.3.4 Operating Permit Terms and Conditions. The Operating Permit shall include the following (*see Minnesota Rules, Chapter 7082.0600, Subp.2.B*):

- A. System performance requirements
- B. System operating requirements
- C. Monitoring locations, procedures and recording requirements
- D. Maintenance requirements and schedules
- E. Compliance limits and boundaries
- F. Reporting requirements
- G. Department notification requirements for non-compliant conditions
- H. Valid contract between the owner and a licensed maintenance business
- I. Disclosure, location and condition of acceptable soil treatment and dispersal system site.
- J. Descriptions of acceptable and prohibited discharges.

300.14.3.6.3.5 Permit Expiration and Renewal

- A. Operating Permits shall be valid for a specific term stated on the permit as determined by the Department.
- B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until which time the permit is renewed. If not renewed within in ninety (90) calendar days of the expiration date, the Regulatory Authority may require that the system be abandoned in accordance with Paragraph 300.14.3.6.4 and its subparagraphs.
- C. The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
- D. Application shall be made on a form provided by the Department including:
  - (1) Applicant name, mailing address and phone number.
  - (2) Reference number of previous owner's operating permit.
  - (3) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
  - (4) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the Regulatory Authority.
  - (5) Any revisions made to the operation and maintenance manual.
  - (6) Payment of application review fee as determined by the Regulatory Authority.

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

300.14.3.6.3.7 Transfers. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Subparagraph 300.14.3.6.3. The Department shall not terminate the current permit until (60) calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

300.14.3.6.3.8 Suspension or Revocation

A. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.

B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.

C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Subparagraph 300.14.3.6.4 and its subparagraphs.

D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

300.14.3.6.3.9 Compliance Monitoring

A. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.

B. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider.

The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:

- (1) Owner name and address
- (2) Operating Permit number
- (3) Average daily flow since last compliance monitoring report
- (4) Description of type of maintenance and date performed
- (5) Description of samples taken (if required), analytical laboratory used, and results of analyses
- (6) Problems noted with the system and actions proposed or taken to correct them
- (7) Name, signature, license and license number of the licensed professional who performed the work

### 300.14.3.6.5 ABANDONMENT CERTIFICATION

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

#### 300.14.3.6.4.2 Abandonment Requirements

A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this ordinance shall be prohibited.

B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.

C. An owner of an SSTS must retain a licensed installation business to abandon all components of the treatment system within sixty (60) calendar days of a system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.

D. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:

- (1) Owner's name and contact information
- (2) Property address
- (3) System construction permit and operating permit
- (4) The reason(s) for abandonment
- (5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

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

### 300.14.3.7 MANAGEMENT PLANS

300.14.3.7.1 PURPOSE. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the

performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

#### 300.14.3.7.2 MANAGEMENT PLAN REQUIREMENTS

##### 300.14.3.7.2.1 SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification. Some systems may also have an operating permit as provided in section 300.14.3.6.3. All management plans must be signed by the homeowner or the agent of the homeowner.

##### 300.14.3.7.2.2 Required Contents of a Management Plan. Management plans shall include (*Minnesota Rules, Chapter 7082.0600, Subp.1*):

- A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
- F. Other requirements as determined by the Department

##### 300.14.3.7.2.3 Requirements for Systems not Operated under a Management Plan. (*Minnesota Rules, Chapter 7082.0100, Subp. 3.(L)*). SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids if needed every three (3) years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

#### 300.14.3.8 COMPLIANCE MANAGEMENT

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

### 300.14.3.8.2 COMPLIANCE INSPECTION PROGRAM

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

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

#### 300.14.3.8.2.2 New Construction or Replacement

A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department’s requirements.

B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS and twenty-four (24) hours notice prior to any scheduled inspection.

C. All inspections are required, as noted on the permit and any additional inspections required by the Department. An As-Built of the system shall be submitted to the Department within twenty-one (21) days of the inspection of the tanks or inspection of the mound/drain field, whichever occurs last.

D. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

E. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.

F. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.

G. Certificates of compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

#### 300.14.3.8.2.3 Existing Systems

A. Compliance inspections shall be required when any of the following conditions occur:

- (1) When a construction permit is required to repair, modify, or upgrade an existing system;
- (2) Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
- (3) Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
- (4) At anytime as required by this ordinance or the Department deems appropriate such as, upon receipt of a complaint or other notice of a system malfunction. All complaints and notices shall include contact information from the complainant and be in writing. An exception to this provision would be a report from a county employee in the performance of their job. In this case a notification to the department is sufficient. In either case, the department will perform a preliminary investigation of the complaint within five working days and confirm

their findings to the complainant. All complaints are strictly confidential to persons working outside of the department.

B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by PCA. The following conditions, must be assessed, or verified:

- (1) Water tightness assessment of all treatment tanks including a leakage report;
- (2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report;
- (3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.

C. The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, which is authorized to by the Department, whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.

D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) calendar days of receipt from the licensed inspection business.

E. Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of compliance.

F. SSTS on properties sold or transferred to new owners should be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department that are conducted prior to ownership transfers. The determination of need to repair, replace, or upgrade should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction. This provision should be preceded with a public and local realtor's awareness campaign.

#### 300.14.3.8.2.4 Transfer of Properties

A. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless the following requirements are met:

- (1) A compliance inspection has been performed and a Certificate of Compliance has been issued by the Department within three (3) years for SSTS older than five (5) years or within five (5) years if the system is less than five (5) years old prior to the intended sale or transfer of the property; unless, evidence is found identifying an Imminent Threat to Public Health and Safety.
- (2) The compliance inspection must have been performed by a qualified employee of the Department or a licensed inspection business following procedures described in part 300.14.3.8.2. of this ordinance.

(3) The seller of the property must disclose in writing information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department. [Certification of Status of Septic System form].

(4) If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 150% of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance.

B. The compliance portion of the Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:

(1) The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.

(2) The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.

(3) The transfer is a foreclosure or tax forfeiture.

(4) The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this ordinance. This subsection applies only to the original vendor and vendee on such a contract.

(5) Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.

C. All property conveyances subject to this ordinance occurring during the period between November 1st and April 30th when SSTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be non-compliant, an escrow agreement must be established in accordance with Subparagraph 300.14.3.8.2.4 A(4), above, and the system upgraded.

D. The responsibility for completing the compliance portion of the escrow agreement under Subparagraph 300.14.3.8.2.4 A(4), above, or for upgrading a system found to be noncompliant shall be determined by the buyer and seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing the compliance portion of the escrow agreement and for upgrading a system found to be nonconforming. [Certification of Status of Septic System form].

E. Neither the issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.

F. The Certification of Status of Septic System form shall be filed with the County Recorder/Registrar of Titles along with the Certificate of Real Estate Value. A copy shall also be filed with the Department at the same time.

### 300.14.3.9 ENFORCEMENT

#### 300.14.3.9.1 VIOLATIONS

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

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

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

#### 300.14.3.9.1.3 Issuance of Citations

A. As specified herein, individuals occupying the designated County positions are authorized to issue citations in lieu of arrest or continued detention for a petty misdemeanor or misdemeanor violation of this ordinance.

- (1) Zoning Administrator
- (2) Building Inspector
- (3) Sanitarian
- (4) Code Enforcement Officer
- (5) Qualified Employee

B. Additional Authority. Except as otherwise provided by statute, only a peace officer and a part-time peace officer may take a person into custody as permitted by Minn. Stat. §629.34.

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

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

300.14.3.9.3 STATE NOTIFICATION OF VIOLATION. The Department may notify the PCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this ordinance.

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

300.14.3.9.5 PERMITS No land use permit, license, or other permit shall be issued for the construction upon use or occupation of any parcel or property within the County of Sibley unless the requirements of this Ordinance are met with respect to said parcel of property.

300.14.3.9.6 MEDIATION PROCESS. A mediation process is hereby created to assist with dispute resolution regarding a SSTS. Any individual or SSTS practioner may request mediation on any decision of the Department, or its

designee, to the SSTS Committee. The request must be in writing and include the fee.

300.14.3.9.6.1 Membership on the SSTS Committee shall consist of the five (5) appointed members of the Planning and Zoning Board, one (1) township official, one (1) SSTS contractor, and one (1) person knowledgeable in water resources. All members shall be appointed by the County Board annually.

300.14.3.9.6.2 Five (5) members of the SSTS Committee shall constitute a quorum. All actions will be by majority vote. The committee can establish such rules as it deems necessary. Members of the Department shall provide administrative support to the SSTS Committee.

300.14.3.9.6.3 The SSTS Committee shall seek to assist with dispute resolution through mediation. Further appeals shall follow the Appeals Process of the County Code Section 300, Planning and Zoning.

#### 300.14.3.10 MISCELLANEOUS PROVISIONS

300.14.3.10.1 RECORD KEEPING. The Regulatory Authority shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the county sorted by licensed installation businesses, and other records relevant to each system.

300.14.3.10.2 ANNUAL REPORT. The department shall provide an annual report of SSTS permitting activities to MPCA as required by the MPCA.

300.14.3.10.3 FEES. From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this ordinance. Fees shall be due and payable at a time and in a manner to be determined by the department.

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

300.14.3.10.5 SEVERABILITY. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

300.14.3.10.6 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this ordinance to repeal, abrogate, or impair any other existing County ordinance, easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

300.14.3.11 WATER SYSTEMS.

Public and private water facilities shall comply with the standards and specifications as established by the Minnesota Department of Health.

300.14.3.12 AGRICULTURAL WASTE.

Agricultural waste disposal operations shall comply with the standards, criteria, rules and regulations of the Minnesota Pollution Control Agency.

SUBD. 300.14.4. Extraction of Materials and Minerals, Open Pits and Impounding of Waters

All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this Subdivision and any other ordinance or regulation of the County.

300.14.4.1 Definition:

Excavations, as used in this SUBDIVISION, shall mean any artificial excavation of the earth, within the County, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed are excepted, if a permit has been issued for such construction or installation. Excavations not exceeding fifty (50) square feet of surface area to two (2) feet in depth and excavations including impounding of water for agricultural purposes are exempted. Excavations for borrow material related to a road construction project, taken from a borrow site adjacent to the project, are exempted.

#### 300.14.4.2 Conditional Use Permit Required:

No person shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit or excavation or any impounded water, without first making an application for and obtaining from the Board of County Commissioners and the County Planning Commission a Conditional Use Permit therefore. For pits or excavations for impounded water which are under five (5) feet in depth a Conditional Use Permit shall not be required, but an over the counter permit issued by the Planning and Zoning Administration shall be required and the cost for said permit shall be the cost to record the permit with the County Recorder.

#### 300.14.4.3 Application:

Such application shall be filed with the Planning and Zoning Administrator and processed in a manner required of all Conditional Use Permit applications, provided that no hearing will be scheduled on any matter involving subpart C below until the applicant has filed a letter of approval from the appropriate agency of the State of Minnesota.

- a. His true name and address.
- b. A full description of the location of the land where the pit or excavation is or is to be or where the impounded waters are or are to be maintained and also a full description of the location on such land of the pit, excavation or impounded waters.
- c. When required by the State of Minnesota, an approval by the State to impound such water or to make such excavation as described in the application.
- d. The purpose of the pit or excavation or the quantity of water impounded.
- e. The highways, roads, or other public ways in the County upon and along which any materials for removal is to be hauled or carried.
- f. The estimated time when building or removing will begin and be completed. Such application shall be filed with the Zoning Administrator and processed in a manner required of all Conditional Use Permit applications.

#### 300.14.4.4 Filing of Map, Plat:

The Board of County Commissioners may require a map or plat of the proposed pit or excavation to be made and filed with the application before acting on the same, showing the confines or limits thereof, together with a plan indicating the topography and overall condition of the site after excavation is completed. A similar map or plat may be required in regard to the proposed container for the impounded waters.

#### 300.14.4.5 Conditions of Permit:

The Board of County Commissioners, as a prerequisite to the granting of a permit or after a permit has been granted, may require the applicant to whom such permit issues or the

owner or user of the property on which the open pit or excavation or impounded waters are located to:

- a. Properly fence any pit or excavations;
- b. Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from carving or sliding banks;
- c. Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful as the Board shall determine;
- d. Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted;
- e. Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets or other public ways as the Board shall order and direct;
- f. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition; and
- g. Grade site after extraction is completed so as to render it usable, seeding where required to avoid erosion and an unsightly mar on the landscape.

#### 300.14.4.6 Bond May Be Required:

The Board of County Commissioners may require either the applicant or the owner or user of the property on which the open pit or excavation or impounded waters is located to post a bond, in such form and sum as the Board shall determine, with sufficient surety running to the County, conditioned to pay the County the extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this SUBDIVISION and the particular permit, and to pay any expense the County may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

#### 300.14.4.7 Aggregate Removal Permits.

No person shall hereafter process, crush, wash, refine, load, remove, excavate or obtain any aggregate materials which is subject to the Aggregate Removal Tax provided for in Minnesota Statute §298.75 without first making an application for and obtaining from the County Planning and Zoning Administrator a permit therefore. Each permit shall provide that the applicant pay the Aggregate Removal Tax when due and the permit will be renewed annually if the Aggregate Removal Tax is paid. The cost of the permit shall be determined by the County Board. The owner of the pit may remove up to 1,000 tons per year without obtaining a permit.

## SUBD 300.14.5 Dwellings

300.14.5.1 All dwellings shall be at least 20 feet in width.

300.14.5.2 All dwellings shall be erected on a permanent foundation.

300.14.5.3 Unless excepted from herein, there shall only be one dwelling per lot.

300.14.5.4 Extra farm dwellings shall have a lot split with the new lot surveyed by a Registered Land Surveyor and recorded with the County Recorder. They shall also have direct access or recorded easement for access to a public road.

300.14.5.5 Accessory dwellings shall be subject to the following:

- a. No more than one accessory dwelling unit is permitted per lot and must be on a lot with a single family dwelling. Accessory Dwellings shall not be located on sites with extra farm dwellings or temporary dwellings.
- b. The principal structure and a detached accessory unit must be located on one undivided lot. The accessory dwelling shall not exceed 75% of the size of the principal structure.
- c. The applicant for a conditional use permit for an accessory dwelling shall demonstrate adequate provisions for sewage disposal for the accessory and primary dwelling units in accordance with this Ordinance. Sewage treatment system, including drain fields shall meet the minimum required setback.
- d. The accessory dwelling unit shall not be owned independently of the principal structure. The accessory dwelling unit shall not be rented to an individual or be used for commercial purposes.
- e. An accessory dwelling unit and its supporting parking area shall be served by the same driveway and access that serves the principal single family dwelling.
- f. The accessory dwelling unit shall meet the minimum setbacks required for a principal structure within the zoning district. The height may meet the height permitted in the zoning district as long as it does not exceed the height of the principal structure.
- g. The property owner shall execute a declaration of land use restrictive covenants and owner's warranties creating certain covenants running with the land for the purpose of enforcing the definitional requirement of family occupancy and standards and conditions of this subsection and file the same with the county

recorder. The Zoning Administrator shall approve the content of the declaration before it is recorded. The property owner must deliver an executed original of the declaration, which shall display its date and document number of record, to the Zoning Administrator before any County building or zoning permits required for the accessory dwelling unit can be issued.

h. Design and Appearance.

1. Attached accessory dwellings shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family dwelling.
  2. Detached accessory dwellings shall be designed and constructed so that, to the degree reasonably feasible, the structure may be converted to an accessory use allowed in the zoning district the site is located within.
- i. An accessory dwelling shall not contain more than one (1) bathroom, one (1) kitchen (with or without eating area), one (1) utility room, two (2) bedrooms, and one (1) living/multi purpose room.
  - j. All kitchen appliances and/or plumbing equipment shall be removed once the accessory dwelling is no longer occupied by a family member.
  - k. Every other year following approval, the property owner shall file an affidavit with the zoning administrator verifying continued family member occupancy of the accessory dwelling. Alternative forms of verification may be allowed at the discretion of the Zoning Administrator.
  - l. Additional conditions may be imposed to ensure that the proposed use is compatible with the surrounding land uses.

300.14.5.6 Temporary dwellings do not need to have a separate lot and are exempt from the minimum dwelling width and foundation requirements but shall comply with all other regulations herein. They shall be reviewed once per year for compliance with the conditions of the Conditional Use Permit, including the temporary use status.

Violations of the conditions will be corrected or the Conditional Use Permit will be revoked. If a temporary dwelling is not used for more than one (1) year, it must be removed. Any change in ownership of a temporary dwelling or the real property on which it is located shall require the new owner to reapply for all necessary permits.

300.14.5.7 Any one family dwelling on a new site, any dwelling which requires a conditional use permit, or any new dwelling in the R-Suburban Residence District must comply with the following:

a. All such dwellings must be sited with the following minimum distances away from existing animal feedlots:

- Feedlots 50 to 599 animal units
  - from dwellings-----1/8 mile
  - from residential zones-----1/4 mile
- Feedlots 600 to 999 animal units
  - from dwellings-----1/4 mile
  - from residential zones-----1/2 mile
- Feedlots 1000 to 1999 animal units
  - from dwellings-----1/4 mile
  - from residential zones-----1 mile
- Feedlots 2000 to 4000 animal units
  - from dwellings-----1/2 mile
  - from residential zones-----2 miles
- Liquid manure storage basins, manure storage areas not meeting the definition of an offsite manure stockpile and commercial composting sites
  - from dwellings-----1 mile
  - from residential zones-----2 miles
- Offsite manure stockpiling
  - from dwellings-----1/4 mile
  - from residential zones-----1/2 mile

300.14.5.8 Any addition to a dwelling shall be physically connected to the existing structure and the interior shall be modified to permit free movement from the addition to the existing structure. The area of the addition shall not exceed fifty (50) percent of the area of the main floor of the existing structure, unless the applicant obtain approval from the board through the conditional use process found in Section 300.15 of this Ordinance. The addition shall contain no additional bedrooms, unless the applicant obtains approval from the board through the conditional use process found in Section 300.15 of the Ordinance.

300.14.5.9 Emergency placement of temporary dwellings will be permitted in all districts where temporary dwellings are permitted as conditional use permits upon the following terms:

a. The Planning and Zoning Administrator may grant a permit allowing placement of a temporary dwelling in an emergency situation, but that permit must be approved by the board through the conditional use process found in Section 300.15 of this Ordinance.

- b. The length of the placement cannot exceed 12 months, unless the permit is changed.
- c. At the end of the permit, the temporary dwelling must be removed.
- d. For these purposes an emergency situation shall mean those situations that require a temporary dwelling as a result of a natural disaster, catastrophic loss or medical hardship.

300.14.5.10 For any dwelling which requires a conditional use permit or any new dwelling in any District, the County Board or Zoning Administrator shall attach the following mandatory condition/language to the permit.

- a. The dwelling is in or near an agricultural area and applicant is put on notice of the odors, dirt, noises and hours of operation associated with agricultural activities.

300.14.5.11 For any one family dwelling on a new site, the Zoning Administrator shall record the permit granted against the subject real property.

#### SUBD. 300.14.6 Tree Removal in C and A Districts

300.14.6.1 The intent of this subdivision is:

- a. To insure an economy in harvesting and processing of the county's woodland natural resources through proper forest management principles.
- b. To prevent further watershed destruction caused by unwise logging operations and to protect navigable streams and waterways from woodland debris.
- c. To establish a means with which to assure continued restocking of depleted forest areas.
- d. To maintain an aesthetic wooded conservation area where lands are not suited for other types of agricultural.
- e. To provide a protection measure for seller and buyer of assuring proper sales price, cutting agreement, grading, and waste disposal and payment.

300.14.6.2 General Regulations:

- a. No clearing of land may take place within a distance of 50 feet from the discernible edge of a ravine.
- b. No clearing of land may take place without a county zoning permit for tree removal.
- c. Maintenance and construction required for essential services is exempted from the county zoning permit for tree removal requirements.

300.14.6.3 Individual Landowner.

- a. Subject to the general regulations stated above, an individual landowner shall be allowed to cut timber or trees on his/her property that is consumed on the premises. This includes harvesting of trees for firewood or structural lumber used on the premises.
- b. Subject to the general regulations stated above, an individual landowner shall be allowed to remove trees seriously damaged by storms or acts of God, to remove diseased or dead

trees, to thin and prune stands of timber pursuant to an established tree farm plan or tree management plan, or to conduct normal maintenance along fence lines and field lines. The individual landowner may do this or may contract with another person, firm or corporation to do this.

c. Subject to the general regulations stated above, an individual landowner may harvest his trees 1) by contracting with a commercial harvester who complies with the requirements of the next section or 2) by applying for and receiving an over-the-counter permit from the planning and zoning administrator. The over-the-counter permit will only be issued upon receipt of a map showing the harvest location, and the name and address of the tree harvester, if other than the landowner; and the landowner is limited to \$1,000 of market value of harvested timber per year.

#### 300.14.6.4 Commercial Tree Harvesters.

- a. No person, firm or corporation shall engage in the business of removing or harvesting trees within the County without first registering with the Sibley County Zoning Administrator and providing a performance bond to ensure compliance with this zoning ordinance and boundary lines in the amount of \$10,000.00 Said registration shall be renewable annually on or before December 31st and may be refused renewal by the County Zoning Administrator for cause. Any tree removal by a registrant in violation of the provision of this Subdivision or refusal on the part of a registrant to correct such violation shall be cause for refusal to renew or revocation of a registration. Before any registration under the provisions of this SUBDIVISION may be revoked or its renewal refused, the registrant shall be given a hearing to show cause why such registration should be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing. The annual registration fee shall be established by the County Board of Commissioners. Application for such registration shall be made annually on a form furnished by the County Zoning Administrator.
- b. The requirements of the preceding subpart A regarding commercial tree harvesters are waived when the harvester bids on a proposed timber sale prepared by an independent professional forester or a Department of Natural Resources forester, and where an adequate timber sale contract protecting the landowner is entered into, and a copy is filed with the Planning and Zoning Administrator.
- c. Any other factor considered to be pertinent by the Zoning Administrator or other county authority of a site specific nature.

#### SUBD 300.14.7 Accessory Uses and Structures

300.14.7.1 Residential accessory uses include, but are not limited to, gardening, garage sales, storage of personal items, recreation, socializing and boarding.

300.14.7.2 Agriculture accessory uses include, but are not limited to sale of products raised on the farm, seed sales and airstrips.

300.14.7.3 Residential accessory structures include, but are not limited to storage

sheds, garages, fences, gazebos, antennae, satellite dishes, light poles, flag poles, raised plant beds, - personal green houses, swimming pools, play equipment, docks, and boat lifts.

- 300.14.7.4 Swimming pools must be enclosed within a chain link or similar fence 5 feet in height.
- 300.14.7.5 Agricultural accessory structures include, but are not limited to, storage facilities, feeding equipment, animal shelters, irrigation systems and shops.
- 300.14.7.6 Accessory structures must conform with yard and setback requirements with the following exceptions:
  - a. Fences can be erected with zero setback
  - b. Sheds under 150 square feet in floor area can be within 5 feet of property lines in side yards and rear yards behind the dwelling
- 300.14.7.7 Structures shall be 5 feet away from each other if not attached.
- 300.14.7.8 Notwithstanding any language herein to the contrary, a structure that at some prior time was a temporary dwelling, travel trailer, travel vehicle or other structure that was highway ready, may only be used as an accessory structure if approved by the Board through the conditional use process found in Section 300.15 of this Ordinance.

#### SUBD 300.14.8 Additional Requirements, Exceptions and Modifications

##### 300.14.8.1 Height Regulations:

- a. Any structure that exceeds 150 feet in height shall obtain a letter of clearance from the Federal Aeronautics Administration and the Airport Commission for any airport located within ten (10) miles of the structure proposed to exceed the height limitation.
- b. Height limitations set forth in other SECTIONS of this Ordinance may be increased by one hundred (100) percent when applied to the following:

- 1. Monuments
- 2. Flag Poles
- 3. Cooling Towers
- 4. Grain Elevators

- c. Height limitations set forth in other SECTIONS of this Ordinance may be increased with no limitation except as noted in paragraph a. of this Subdivision when applied to the following:

- 1. Church spires, belfries or domes which do not contain usable space.
- 2. Water towers
- 3. Chimneys or smokestacks

4. Radio or television transmitting towers.

300.14.8.2 Yard Regulations and Bluff and Ditch Setbacks and Yard Exceptions:

300.14.8.2.1 For tree plantings along public drainage ditches or tile lines created pursuant to Minnesota Statutes 103E, there shall be a setback from the mature tree dripline of the tree variety planted of a minimum of 50 feet from the outside edge of the one (1) rod grass strip or the top of the slope of the ditch embankment, whichever results in the greater distance from the public drainage ditch, or a setback from the mature tree dripline of the tree variety planted of a minimum of 50 feet from the centerline of the public drainage tile line.

300.14.8.2.2

- a. Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:
  1. Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four (4) feet six (6) inches.
  2. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet six (6) inches.
  3. A landing place or uncovered porch may extend into the required front yard a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing higher than three (3) feet, six (6) inches may be placed around such place.
  4. The above enumerated architectural features may also extend into any side or rear yard to the same extent that no porch, terrace or outside stairway shall project into the required side yard distance.
- b. A wall, fence or hedge may occupy part of the required front, side or rear yard.
- c. On double frontage lots, the required front yard shall be provided on both streets.
- d. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub, or other growth which may cause danger to traffic on a road or public road by obscuring the view.
- e. The required front yard of a corner lot shall be unobstructed above the height of three (3) feet in a triangular area, two sides of which are the lines running along the shoulder road lines between the road intersection and a point fifty (50) feet from the intersection, and the third side of which is the line between the latter two points.
- f. There shall be a setback of a minimum of 50 feet from all bluffs.
- g. There shall be a setback of one hundred fifty (150) feet from the edge of all public drainage ditches.
- h. No alterations of natural topography in the bluff setback area is allowed.

Excavations necessary for walk-outs, landscaping or other purposes that results in changes to the topography must occur outside the setback area. The review standard is whether the proposed alteration will adversely affect the bluff and/or nearby properties through impacts, including, but not limited to, increased erosion potential through clearing of vegetation, increased runoff and soil disruption.

#### 300.14.8.3 Yard Landscaping:

In the BUSINESS DISTRICT and in the INDUSTRY DISTRICT, all required yards shall be either open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a slightly and well-kept condition. Yards adjoining any RESIDENCE DISTRICT shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as part of the application for building permits and installed as a part of the initial construction.

#### 300.14.8.4 Storage of Materials:

In the BUSINESS DISTRICT and the INDUSTRY DISTRICT, open storage of materials in any required front, side or rear yard shall be prohibited. Any other outside storage shall be located or screened so as not to be visible from any RESIDENCE DISTRICT.

#### 300.14.8.5 Yard Exceptions:

- a. Where buildings exist in violation of front yard or shoreland setback requirements, the yard or setback on the unbuilt lots shall be the average of those existing non-conforming yards or setbacks on adjacent lots. If there is just one, then average that with the minimum regulation.
- b. In city growth areas the street setbacks can conform with those of the city if the street is not an arterial or major collector as designated by the State Functional Classification System.

300.14.8.6 When any existing parcel of real property is split into two or more smaller parcels, the split shall be made in such a way so that all existing structures must comply with the existing setback regulations for the classification of the subject property. All splits shall be described on a survey prepared by a registered land surveyor, which indicates the location of all structures that lie within double the setback distance and the setbacks, and must be recorded with the County Recorder or Registrar of Titles as appropriate.

### SUBD 300.14.9 Manufactured Homes and Parks

300.14.9.1 The rules of the Minnesota Department of Health shall regulate manufactured home parks in addition to the following.

- 300.14.9.2 All structures within a manufactured home park shall be set back at least 100 feet from any adjacent buildable land or park land.
- 300.14.9.3 Manufactured houses used as temporary dwellings shall be placed on permanent foundations or skirted.
- 300.14.9.4 Permits granted for manufactured homes used as temporary dwellings shall be reviewed annually by the County Board and shall become void after one year, unless extended by the County Board. As a condition for renewal, the permit holder must adequately maintain the manufactured home. The zoning administrator shall annually inspect each manufactured home and report his findings to the County Board.
- 300.14.9.5 Manufactured homes placed on permanent foundations (basement, slab or permanent frost free piers) and not used as a temporary dwelling, shall meet all the requirements of Subdivision 30.14.5 – Dwellings, and other applicable requirements of this ordinance.
- 300.14.9.6 A manufactured home converted from a temporary dwelling use to a permanent dwelling use shall meet all requirements of Subdivision 300.14.5 – Dwellings and other applicable requirements of this ordinance. The conversion shall be handled like Conditional Use Permit and shall utilize the Conditional Use Permit process set up on this ordinance.

#### SUBD 300.14.10 Hunting Shacks

##### 300.14.10.1 Intent

The purpose of this section is to provide specific standards and guidelines to be utilized in addition to the general conditional use criteria when considering hunting, trapping, or recreational shack applications. Hunting, trapping or recreational shacks are meant to be a limited use, low investment shelter used for outdoor activities and overnight lodging in the proximity of natural resources, with limited amenities for temporary accommodations only.

##### 300.14.10.2 Density Standards

- a. One shack per lot of record if the general standards in this section can be met, or
- b. One shack per new lot if the new lot is 10 acres or more and the general standards in this section can be met, or
- c. One shack per 80,000 square feet, with a minimum of 60,000 square feet to be left in the natural state, if the general standards and the leasing standards can be met.

##### 300.14.10.3 General Standards

- a. Septic systems are not allowed (except within a group leasing situation). Pit toilets must be built according to Minnesota Pollution Control Agency and the Minnesota Department of Health Standards, through the County Sewage Permit process.
- b. Wells and running water systems are not allowed.
- c. Floor area must not be over 400 square feet.
- d. The 200 foot setback from the ordinary high water mark must be adhered to on all structures except docks.
- e. There must be a minimum property line set back of 75 feet but the county may increase that as a condition in consideration of adjacent land uses.
- f. There must be 200 feet of shoreline for each shack, if located on a lake.
- g. Each lot must be adjacent to a public road or have recorded easement to allow access.
- h. The shacks must be removed if found in a dilapidated or abandoned condition, or the lot is not found in a well kept condition.
- i. A land survey by a registered land surveyor may be required.
- j. The shack areas must be accessible for inspection and safety purposes.

300.14.10.4 Leasing Standards. For situations where no new lots are created, and there will be more than one shack on the lot.

- a. Parcels of less than ten acres will not qualify for more than one shack.
- b. Minimum requirements are clustering of the shacks and common docks and launch areas. Other wildlife benefiting measures incorporated into the operating plan, such as increased setbacks, reducing shack visibility or low impact driveway construction will benefit the application.
- c. There will be a minimum property line setback of 300 feet but the County may increase that as a condition.

300.14.10.5 Application Guidelines

- a. The conditional use permit application must be accompanied by maps showing topography, ordinary high water line, existing structures, land ownership, elevations, roads, vegetation and proposed shack sites and natural land.
- b. Applications for leasing must also show an operating plan including sewage systems, roads, lake access and other applicable features, to be included as a condition for the conditional use permit.
- c. The County may request additional information from the applicant if conditions warrant.
- d. The County may impose additional conditions on the conditional use permit.
- e. The County may require bonding to protect against future public costs.

300.14.10.6 Permit Length

The permit may be canceled at any time the standards or conditions are not being followed, but otherwise would be subject to annual renewals.

SUBD 300.14.11 Regulations for composting facilities for yard wastes

- 300.14.11.1 Individual composting operations (non-commercial) are exempt from these regulations and Conditional Use requirements.
- 300.14.11.2 Soil Type - The area must have a clay base as required by MPCA
- 300.14.11.3 Surface runoff - runoff must meet feedlot guidelines established by Soil Conservation Service.
- 300.14.11.4 Annual renewal on Conditional Use Permit
- 300.14.11.5 Setbacks:
  - a. 100 feet from compost pad to property line.
  - b. 1000 feet from compost pad to nearest dwelling if compost contains waste other than yard waste. (ie livestock waste).
  - c. 500 feet from compost pad to nearest dwelling if compost contains only yard waste (ie no livestock waste).
- 300.14.11.6 Capacity - Only 300 cubic yards of compost per acre of compost pad.
- 300.14.11.7 Access - Operator must have a maintenance agreement with local units of government regarding road maintenance costs.
- 300.14.11.8 Type of compost allowed - Only Class I compost, as determined by MPCA, may be produced in allowed composting facility.
- 300.14.11.9 Performance Bonds - A performance bond of a minimum of \$1,000.00 per acre of compost pad.
- 300.14.11.10 For purposes of this subdivision, the definition of "individual composting operation (non-commercial)" shall mean that the compost product is not for sale, is distributed at no cost, and no charges of any kind, including transportation charges, are assessed for the product.

SUBD 300.14.12 Road Material Crushing

All road material crushing operations hereafter established shall conform with the provisions of this Subdivision and any other ordinances or regulation of the County.

300.14.12.1 Definition:

- a. Road material crushing operation shall mean any operation upon land or in buildings where road material is brought stored, handled and/or crushed.
- b. Road material shall mean any bituminous or concrete paving material used as roadway material.

#### 300.14.12.2 Permit Required.

No person shall hereafter conduct a road material crushing operation upon property owned or used by him without first making application for and obtaining a conditional use permit or over the counter permit as hereinafter provided.

a. An over the counter permit may be granted by the County Planning and Zoning Administrator for a road material crushing operation upon the following conditions.

- 1) The site must be located adjacent to a road project of either the State of Minnesota or County of Sibley.
- 2) The applicant must provide a performance bond to assure proper cleanup of an amount equal to the greater of 5% of the gross construction contract or \$10,000.00.
- 3) The permit shall last for one (1) year and may be renewed, but the permit shall expire one (1) year after the completion of the road project at which time all materials shall be removed and the property returned to its original condition.

b. All other road material crushing operations shall require a conditional use permit as a Salvage Yard as regulated by Section 300.13, Industry District, (Paragraph 300.13.3.7).

#### 300.14.12.3 Application:

Application for a permit shall be made in such form and shall furnish such information as shall be required by the Sibley County Board of Commissioners.

#### SUBD 300.14.13 Animal Feedlot Regulations

##### 300.14.13.1 Authority for County Regulation:

On May 27, 1980, the Minnesota Pollution Control Agency Board (MPCA) approved a Sibley County Board resolution which authorized Sibley County to process animal feedlot permit applications at the local level. This subdivision incorporates that process with the additional county feedlot zoning regulations. Effective July 1, 2017, the Sibley County Board returned the processing of animal feedlot permits to the MPCA.

##### 300.14.13.2 Animal Feedlots Generally:

No person shall permit or allow their land or property under their control to be used for any animal feedlot, and no animal manure from any animal feedlot shall be disposed of within the County of Sibley, except at an operation which has been approved in accordance with the provisions of this subdivision. Nothing in this subdivision shall exempt any owner or operator of any feedlot from conforming with applicable state or federal regulations governing confined feeding operations, or any other provisions of this Ordinance.

300.14.13.3 Adoption by Reference of State Regulations:

Pursuant to M.S.A. 394.25 Subdivision 8, Sibley County adopts by reference Minnesota Rules 7020.0200 to 7020.2225, and subsequent amendments thereto. Provisions of these rules shall be as much a part of this Ordinance as if they had been set out in full herein when adopted by this reference.

300.14.13.4 Application Procedure:

a. The owner of a proposed new animal feedlot or animal feedlot addition shall make application to the MPCA for a feedlot and/or to the County for a zoning permit when any of the following conditions exist:

- 1) A new animal feedlot is proposed.
- 2) An expansion of an existing animal feedlot is proposed.
- 3) Ownership of an existing animal feedlot is changed.
- 4) A National Pollutant Discharge Elimination system (NPDES) permit application is required under state or federal rules and regulations.
- 5) When an inspection determines that the animal feedlot creates or maintains a potential pollution hazard.

b. Review of the application for the County Zoning Permit, in connection with a feedlot, will indicate additional requirements as outlined below:

<u>TYPE</u>	<u>REQUIREMENTS</u>
1) 0-49 animal units -	no additional permits
2) 50-599 animal units -	go through the MPCA permitting procedures (and County Conditional Use if no dwelling is on site); if pollution hazard exists, then MPCA processes permit.
3) 600-1000 animal units, where no dwelling is associated, and manure storage not meeting the definition of an offsite manure stockpile.	go through MPCA permitting Procedures and County Conditional Use process; if pollution hazard exists, then MPCA processes permit.
4) over 1000 animal - units all liquid manure storage basins	go through MPCA permit process and through County Conditional process
5) Feedlot additions -	County Conditional Use in shoreland process

300.14.13.5 Application Requirements

Requirements for the County Zoning Permit are the same as with other Zoning permits as regulated herein. Requirements for MPCA feedlot consideration are as described in MPCA feedlot rules, which are adopted herein by reference. Prior to processing an application for a Conditional Use Permit for a feedlot, the applicant shall obtain the MPCA permit before making application to the County.

300.14.13.6 County Zoning Standards

Applicable to all feedlots regardless of their status in connection with MPCA regulations.

a. All new animal feedlots must be sited with the following minimum distances away from existing dwellings and residential zones:

- Feedlots 50 to 599 animal units
  - from dwellings - - - - - 1/8 mile
  - from residential zones - - - - 1/4 mile
- Feedlots 600 to 999 animal units
  - from dwellings - - - - - 1/4 mile
  - from residential zones - - - - 1/2 mile
- Feedlots 1000 to 1999 animal units-
  - from dwellings - - - - - 1/4 mile
  - from residential zones - - - - 1 mile
- Feedlots 2000 to 4000 animal units
  - from dwellings- - - - - 1/2 mile
  - from residential zones - - - - 2 miles
- Liquid manure storage basins,
 manure storage areas not meeting
 the definition of an offsite manure
 stockpile and commercial
 composting sites
  - from dwellings - - - - - 1 mile
  - from residential zones - - - - 2 miles
- offsite manure stockpiling
  - from dwellings - - - - - 1/4 mile
  - from residential zones - - - 1/2 mile

Dwellings on the feedlot site are exempt from these separation requirements. All additions onto existing feedlots shall adhere to the above separation requirements.

b. In addition to applicable setback requirements of the zoning district, all feedlot activities must take place at least 100 feet away from adjacent buildable land and park land.

c. All manure application shall comply with the Best Management Practices as established by the U.S. Department of Agriculture and Soil and Water Conservation Service, the University of Minnesota Department of Agricultural Engineering and MPCA.

- d. At termination of the animal feedlot operation, the owner shall dispose of all manure and close all open pits in accordance with MPCA rules.
- e. All methods of disposal of dead, dying or diseased animals shall comply with Minnesota Board of Animal Health regulations.

#### 300.14.13.7 Feedlots Requiring A Conditional Use Permit

In granting a conditional use for a feedlot, the County may attach special conditions including, but not limited to:

- a. Increase of minimum property line setback requirements.
- b. Additional setback requirements from special features.
- c. Location of feedlot additions relative to dwellings.
- d. Recommendations and guidelines from the MPCA, the Department of Agriculture, the Soil and Water Conservation District and U of M Agricultural Engineering.

300.14.13.8 Variances from the County Zoning rules are regulated herein. Variances from the MPCA rules are regulated by those rules.

#### SUBD 300.14.14 Shoreland Management Standards

##### 300.14.14.1 Statutory Authorization and Policy

These Shoreland Standards are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

The uncontrolled use of shorelands of Sibley 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 Sibley County.

##### 300.14.14.2 PURPOSE

These Shoreland Management Standards are adopted for the purpose of:

- a. Regulating suitable uses of land surrounding public water.
- b. Regulating the size and shape of parcels, length of water frontage and alteration of shorelands of public water.

- c. Regulating the location, installation and maintenance of sanitary facilities adjacent to public waters.
- d. Preservation of the natural vegetation, natural topography and other natural resources to insure a high standard of environmental quality.

300.14.14.3 Water Bodies to Which This Section Applies

The provisions of this subdivision shall apply to the shorelands of the public water bodies as classified in this section.

The public waters of Sibley County have been classified consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Sibley County, Minnesota and are as follows:

	Protected Waters
a. Natural Environment Lakes	Inventory I.D.#
Unnamed	72-1
Kerry	72-6
Holste Marsh	72-7
Horseshoe	72-10
Bucks	72-11
Silver	72-13
Washington	72-17
Mud (Erin)	72-18
Curran	72-23
Schauer	72-25
Severance	72-30
Unnamed	72-35
Rice	72-36
Duff	72-38
Altnow	72-39
Weimann	72-40
Beatty	72-41
Kirby	72-47
Schilling	72-49
Mud	72-51
Fadden	72-52
Hahn	72-54
Mud	72-55
Mud	72-57
Indian	72-66
Sand	72-69
Clear	72-89

Grundmeyer Pothole	72-91
Swan	72-93
Mud	72-95
Brian	43-2
Ward	43-88
Round Grove	43-116
Rice (Plaman) Lake	52-33

		Protected Waters
b.	Recreational Development Lakes	Inventory I.D.#
	Mud	72-45
	High Island	72-50
c.	General Development Lakes	
	Titloe	72-42

300.14.14.4 Rivers and Streams:

As shown on Sibley County Zoning Map

300.14.14.5 Abrogation and Greater Restrictions

- a. It is not intended by this Subdivision to repeal, abrogate, or impair any existing easements covenants, or deed restrictions. However, where this Subdivision imposes greater restrictions, the provisions of this Subdivision shall prevail. All other Subdivisions inconsistent with this Subdivision are hereby repealed to the extent of the inconsistency only.
- b. The Shoreland Standards shall be in addition to any other provisions of this Ordinance.

300.14.14.6 Permits Required

A zoning permit authorizing an addition attached or unattached to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Paragraph 300.14.14.21 and 300.14.14.22 of this SUBD, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

300.14.14.7 Controlled Accesses

Lots intended as controlled accesses to public water 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 non-riparian 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 developed that 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 must 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 non-significant 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, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

300.14.14.8 Placement of Structures.

a. 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:

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

	Classes of Public Waters	Structures	Sewage Treatment System
	Lakes		
Code of Ordinances of the County of Sibley	General	200	150
Article 300 Zoning Ordinance	Recreational Development	150	100
	General Development	75	50

Agriculture, Transition and Tributary	150	100
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c. **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback (in feet)
(1) top of bluff;	50
(2) unplatted cemetery;	50
(3) centerline of federal, state, or county highway; and	130
(4) right-of-way of minor street serving a residential subdivision.	40

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

300.14.14.9 Elevation Criteria For Structures.

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

- 1) for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
- 2) for rivers and streams, by placing the lowest floor at least three feet above the highest 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 Regulations parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- 3) water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant

material to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

300.14.14.10 Water-oriented Accessory Structures. Each lot may have one water-oriented Accessory structure not meeting the normal structure setback if this water-oriented accessory structure complies with the following provisions:

- a. the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- b. the setback of the structure or facility from the ordinary high water level must be at least ten feet;
- c. the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- d. the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- e. the structure of facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- f. as an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

300.14.14.11 Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.

Stairways and lifts must meet the following design requirements:

- 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;
- 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;
- c. canopies or roofs are not allowed on stairways, lifts or landings;
- d. stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- e. stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- f. facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that

the dimensional and performance standards of sub items (a) to (e) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

300.14.14.12 Significant Historic Site. 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.

300.14.14.13 Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

300.14.14.14 Height of Structure. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 30 feet in height.

300.14.14.15 Vegetation Alterations.

a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Paragraph 300.14.14.17 of this Subdivision and essential services are exempt from the vegetation alteration standards that follow.

b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Paragraph 300.14.14.19 (b) and (c) of this subdivision, respectfully, is allowed subject to the following standards:

1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

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

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

- b) along rivers, existing shading of water surfaces is preserved; and
- c) no cutting or removal of live trees over six (6) inches in diameter measured to a point two (2) feet above ground level shall take place until a Conditional use Permit has been issued.
- d) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

300.14.14.16 Topographic Alterations/Grading and Filling.

a. 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.

b. Public roads and parking areas are regulated by Paragraph 300.14.14.17 of this SUBD.

c. Notwithstanding Items A. and B. above, a grading and filling permit will be required for:

- 1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
- 2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. 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:

- 1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
  - a) sediment and pollutant trapping and retention;
  - b) storage of surface runoff to prevent or reduce flood damage;
  - c) fish and wildlife habitat;
  - d) recreational use;
  - e) shoreline or bank stabilization; and
  - f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

- 2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- 3) Mulches 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;
- 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

- 5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- 6) Fill or excavated material must not be placed in a manner that creates an unstable slope;
- 7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- 8) Fill or excavated material must not be placed in bluff impact zones;
- 9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.245;
- 10) No alterations of natural topography in the bluff setback area is allowed. Excavation necessary for walk-outs, landscaping or other purposes that results in changes to the topography must occur outside the setback area. The review standard is whether the proposed alteration will adversely affect the bluff and/or nearby properties through impacts, including, but not limited to, increased erosion potential through clearing of vegetation, increased runoff and soil disruption.
- 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three 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.

e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall require a land use permit from the Zoning Administrator before construction is begun. Permission for excavations may be given only after the Commissioner of Department of Natural Resources has approved the proposed connection to public waters.

#### 300.14.14.17 Placement and Design of Roads, Driveways and Parking Areas.

- a. Public and private roads, forest 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 special applicable technical materials.
- b. Roads, forest 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.
- c. 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 Paragraph 300.14.14.16 of this SUBD must be met.

### 300.14.14.18 Stormwater Management.

The following general and specific standards shall apply:

a. General Standards:

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

b. Specific Standards:

- 1) Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- 2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

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

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

- 1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - a) in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the use must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - b) uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

c) uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

- no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

- signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

- other outside lighting may be located within the shore impact zone or other 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.

2) 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.

b. Agriculture Use Standards.

1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

2) 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.

c. 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."

d. Extractive Use Standards.

1) 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.

2) 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.

e. 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.

300.14.14.20 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 300.15. The following additional evaluation criteria and conditions apply within shoreland areas:

a. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- 1) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- 2) the visibility of structures and other facilities as viewed from public waters is limited;
- 3) the site is adequate for water supply and on-site sewage treatment; and
- 4) the types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters

to safely accommodate these watercraft.

b. Conditions attached to conditional uses permits. The County Board, 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:

- 1) increased setbacks from the ordinary high water level;
- 2) limitations on the natural vegetation to be removed or the requirement that additional vegetation to be planted; and
- 3) special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

#### 300.14.14.21 Water Supply and Sewage Treatment

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

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

- 1) Publicly-owned sewer systems must be used where available.
- 2) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- 3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Paragraph 300.14.14.8 of this subdivision.
- 4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub items (a)-(d). 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:
  - a) depth to the highest known calculated ground water table or bedrock;
  - b) soil conditions, properties, and permeability;
  - c) slope;
  - d) the existence of lowlands, local surface depressions, and rock outcrops;
- 5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Paragraph 300.14.14.22 of this SUBDIVISION.

#### 300.14.14.22 Nonconformities

All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this

community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

a. Construction on nonconforming lots of record. (Substandard Lots)

1) Lots of record in the office of the county recorder that met the minimum lot size requirements on the date of enactment, that do not meet the requirements herein, may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this subdivision the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this subdivision as much as possible.

b. Additions/expansions to nonconforming structures.

1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this subdivision. Any deviation from these requirements must be authorized by a variance pursuant to Section 300.19.

2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all the following criteria and standards are met:

- a) the structure existed on the date the structure setbacks were established;
- b) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c) 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
- d) the deck is constructed primarily of wood, and is not roofed or screened.

c. Nonconforming sewage treatment systems.

1) A sewage treatment system not meeting the requirements of this SUBDIVISION must be upgraded, at a minimum, at any time a permit or variance of any type is required for improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the

only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

2) The governing body of Sibley County has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. The County of Sibley will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time.

Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

#### 300.14.14.23 Subdivision/Platting Provisions

a. Land suitability. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

b. Consistency with other controls. Subdivisions must conform to all official controls of Sibley County. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with this subdivision can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of this subdivision, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

c. Information requirements. Sufficient information must be submitted by the applicant for the county to make a determination of land suitability. The information shall include at least the following:

- 1) topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- 2) the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- 3) adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources

or from field investigations such as soil borings, percolation tests, or other methods;  
4) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

5) location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

6) a line contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

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

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

#### 300.14.14.24 Procedures for Submitting a Plat

a. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the construction of a structure or sewage treatment system in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the Sibley County Subdivision Ordinance.

b. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria of this section.

#### 300.14.14.25 Notifications to the Department of Natural Resources

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

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

Where a variance is approved after the Department of Natural Resources was formally recommended denial in the hearing record, the notification of the approved variance required herein shall also include the board of adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.

#### SUBD 300.14.15 Organized Farm Colonies

- 300.14.15.1 Organized farm colonies shall follow the same administrative procedure as outlined for SUBD. 300.11.5 Planned Unit Developments of Section 300.11, the Suburban Residence District but formal platting is not required.
- 300.14.15.2 The conditional use permit is for relief from traditional lot lines and to have common ownership like a PUD. It is not for relief from any other regulations or to allow for uses other than allowed in the district.
- 300.14.15.3 There shall be at least 20 acres of land per family dwelling unit.
- 300.14.15.4 The colony shall qualify as a non-profit corporation organized under Section 501 of the United States Internal Revenue Code.

#### SUBD 300.14.16 Home Occupations

##### 300.14.16.1 Level 1 - Permitted Use Standards:

- a. Maximum Floor Use Area - 1,000 square feet (except with uses such as day care where the whole dwelling may be used as a home), and
- b. No more than one person, other than the members of the family occupying the dwelling shall be employed in conjunction with the home occupation, and
- c. No extra traffic generated over an estimated 4 vehicle trips per day, and
- d. No noise, vibration, glare, fumes, odors, or electrical interference detectable off premises, and
- e. There shall be no change in the dwelling unit or premises, or other visible evidence of the conduct of such home occupation (including signs other than the District allows as a permitted use), and
- f. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, garbage) so that the combined total use for the dwelling and home occupation purposes exceeds the average for the residences in the neighborhood, and
- g. No special or hazardous wastes generated.

NOTE: Level 1 Home Occupation does not have automatic right to expand to Level 2 Home Occupation

##### 300.14.16.2 Level 2 - Conditional Use Standards

Level 2 category has a higher intensity of use than those indicated in Level 1 Permitted Standards.

Previous investments will not be used as a reason to override these standards or other valid concerns of conditional uses contained in this Ordinance.

In considering conditional uses for Home Occupations (Level 2), the outside appearance will be set and added as a condition.

Subsequent non-compliance with any conditions will be cause for discontinuance of the conditional use permit.

Additional conditions may include lighting, hours, buffers, setbacks, service road, signage, platting or other conditions deemed suitable.

Level 2 uses are defined as those uses that don't qualify as Level 1 but that:

- a. Use less than 2,000 square feet of floor space (except with uses such as day care where the whole dwelling may be used as a home), and
- b. Employ less than 4 employees at the site at the same time (other than the occupants of the dwellings), and
- c. Produce extra traffic generation not more than 12 vehicle trips per day, and
- d. Produce no noise, vibration, glare, fume, odor or electrical interference detectable off the premises that can't be mitigated with special conditions, and
- e. Shall cause no increase in the use of any one or more utilities (water, sewer, electricity, garbage) that strain the utility's provision of services, and
- f. Produce no special or hazardous wastes that require special treatment, and
- g. Need no more signage other than

300.14.16.3 A home occupation may be carried out in an accessory building, with all applicable standards for the designated home occupation level.

300.14.16.4 Non-conforming Home Occupations. All non-conforming home occupations legally existing prior to the adoption of this Ordinance shall be allowed to continue, but shall not be allowed to expand, be rebuilt, relocated, replaced or altered without being brought into compliance with all the requirements of this subdivision.

SUBD 300.14.17 [This left intentionally blank]

SUBD 300.14.18 Windpower Management Standards

300.14.18.1 Purpose

a. The purpose of this SUBD is to set forth a process for permitting wind energy facilities.

#### 300.14.18.2. Permit Application

- a. All proposed wind energy facilities must fill out a Permit application provided by the Sibley County Planning and Zoning Department.
- b. A wind energy facility under 40kw capacity and less than 150 feet tall at its highest point is a permitted use in the district where permitted.
- c. A wind energy facility at or over 40kw capacity, or 150 feet or more tall at its highest point, is a conditional use in the district where permitted.
- d. For wind energy facilities requiring a conditional use permit, projects as defined in section 300.14.18.6 may make a single application for a conditional use permit for the project and pay a single conditional use fee.
- e. In order to promote wind energy facilities in Sibley County, the fee for a setback certificate for each individual tower will be calculated as provided in the fee schedule established by Sibley County, with a cap of \$1,000.00

#### 300.14.18.3 Compliance with Codes and Standards

- a. All wind turbines shall be in compliance with all applicable state and federal regulatory standards including:
  1. Uniform Building Code as adopted by the State of Minnesota.
  2. The National Electrical Code as adopted by the State of Minnesota.
  3. FAA requirements.
  4. MPCA/EPA regulation (hazardous waste, construction, storm water, etc.)

#### 300.14.18.4 Certifications

- a. Equipment shall conform to applicable industry standards including the American Wind Energy Association standard for wind turbine design and related standards adopted by the American Standards Institute (ANSI).

It would be appropriate to require that the equipment manufacturer certify that the equipment is manufactured in compliance with industry standards.

- b. Special attention shall be paid to all turbines that are experimental, used or prototype devices. Maintenance record, inspection by qualified wind energy professionals or some other documentation of unit integrity may be requested.
- c. A professional engineer registered in the State of Minnesota shall certify that the tower and foundation are compatible with and appropriate for the turbine to be installed and that the specific soils at the site can support the apparatus. For a wind energy facility allowed as a permitted use, the certification required by this part can be provided by the manufacturer's engineer. The certification shall be to the satisfaction of the zoning administrator.

300.14.18.5 Overspeed Controls

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

300.14.18.6. Setback Requirements

a. The setback requirements are as follows:

<u>Object</u>	<u>Setback 40kw or over</u>	<u>Setback under 40kw</u>
Residence	750 feet	1.1 times height (max)
Project Boundary	5 rotor diameters	5 rotor diameters
Public Roads (from right of way)	300 feet	1 times height (max)
Other Structures And Property Lines	1.25 times their height	1.1 times height (max)

For purposes of this paragraph, “project boundary” means tower separation between separate projects; and “projects” are towers erected at the same time, whether owned by one or more landowners or entities, and designated by the landowners or entities as one project.

300.14.18.7 Noise Standards

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

300.14.18.8 Decommissioning

a. A wind energy facility shall be considered abandoned after 1 year without energy production, unless a plan is developed and submitted to the county zoning administrator outlining the steps and schedule for returning the wind energy facility to service. All wind energy facilities and accessory facilities shall be decommissioned consistent with the provisions set out in this section within 90 days of the abandonment.  
b. All facilities shall be properly decommissioned upon end of project life or facility abandonment. Decommissioning shall include: removal of all structures and debris to a depth of 4 feet; restoration of the soil; and restoration of vegetation (consistent and compatible with surrounding vegetation).

c. A time of application or when directed by the zoning administrator, owner shall submit a decommissioning plan. This plan will identify:

1. When and how a facility is to be decommissioned.
2. Estimated cost of decommissioning.

#### 300.14.18.9 Waste Management

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

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

#### 300.14.18.10 Tower Type

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

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

1. Improved aesthetics, including intra and inter project visual consistency.
2. Minimized impact on farming activities.
3. Reduced potential for unauthorized climbing.
4. Improved maintenance access increasing the total turbine operating availability.
5. Reduced need for ancillary structures to house control equipment.

#### 300.14.18.11 Signage

a. It is important that signage be properly controlled. Signage regulations are to be consistent with SUBD 300.14.1. It is also recommended that signs to warn of high voltage be posted at least at the entrances of facilities.

#### 300.14.18.12 Aesthetics

a. The following items are recommended standards to mitigate visual impacts.

1. Coatings and Coloring: Non-reflective unobtrusive color. Black blades are acceptable for mitigation of icing.
2. Signage: Including anything on the tower or nacelle shall be consistent with other county ordinances pertaining to signage.

3. Turbine Consistency: To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction. Turbines shall also be consistent in design, color and direction with nearby facilities.

4. Lighting: Projects shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA. It may be appropriate for permits to allow for some infrared lights or heat lamps to prevent icing of sensors.

5. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines, and all communication lines shall be buried underground. Allowances shall be provided where shallow bedrock interferes with the ability to bury underground lines.

6. Screening: There may be critical vistas or views from public roads to scenic locations that are negatively impacted by wind turbines which are determined by Administrator. It may be appropriate to require landscaping materials at a scenic overlook that screens the view of or distracts attention from the turbines in order to minimize visual impact.

#### 300.14.18.13 Public Service

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

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

1. Adherence to electrical codes and standards.

2. Removal of fuel sources, like vegetation, from immediate vicinity of electrical gear and connections.

3. Utilization of twistable cables on turbines.

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

#### 300.14.18.14 Orderly and Efficient Use of the Resource

a. Sibley County seeks the orderly and efficient use of the wind resource. Applications shall be reviewed to ensure that the project area does not adversely impact wind development potential on adjacent lands.

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

### 300.14.18.15 Other Pertinent Information

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

1. A site plan, detailing the location of the project area boundaries, turbines, roads, transformers, power lines, communication lines, interconnection point with transmission lines, and other ancillary facilities or structures.
2. Topographic map of the project site and surrounding area.
3. Current land use on the site and of the surrounding area.
4. Distance to impacted properties.
5. Decommissioning plan.
6. Engineering certification of tower and foundation design suitability for turbine and soils.
7. Evidence of power purchase contracts and power transmission contracts, or documentations that the power will be utilized on-site.
8. Evidence of control of wind easements in the entire project area.
9. Description and identification of adjoining wind easements.

### SUBD 300.14.19 Adult Establishments

#### 300.14.19.1 Purpose and Intent

300.14.19.1.1 Findings of the County Board. Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul; Indianapolis; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods.

Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The County Board of the County of Sibley makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by County staff. Based on these studies and findings, the county board concludes:

(a) Adult establishments have adverse secondary impacts of the types set forth above.

(b) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.

(c) It is the intent of the county board to prohibit adult establishments from having a reasonable opportunity to locate in county.

(d) Minnesota Statutes, Section 394.21 allows the county to adopt regulations to promote the public health, safety, morals and general welfare.

(e) The public health, safety, morals and general welfare will be promoted by the County adopting regulations governing adult establishments.

(f) Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing county crime-prevention programs and law enforcement services.

(g) Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities and counties indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(h) Adult establishments can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

(i) Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(j) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

300.14.19.1.2 Purpose. It is the purpose of this Ordinance to regulate Adult Establishments to promote the health, safety, morals, and general welfare of the citizens of the County and to establish reasonable and uniform regulations to:

- a) Prevent additional criminal activity within the County,
- b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- c) To locate Adult Establishments away from residential areas, schools, churches, libraries, parks and playgrounds;
- d) Prevent concentration of Adult Establishments within certain areas of the County.

300.14.19.1.3 The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

### 300.14.19.2 Definitions

For purposes of this Ordinance the terms defined in this section have the meanings given them.

#### 300.14.19.2.1 “Adult Establishment” means:

- a) any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- b) any business that engages in any Adult Use as defined in Paragraph 300.14.19.2.2 of this section.
- c) The term “substantial or significant portion” as used in this ordinance is defined as 25 percent or more of the inventory, stock in trade or publicly displayed merchandise, or 25 percent or more of the floor area (not including store rooms, stock areas, bathrooms, basements, or any portion of the business not open to the public), or 25 percent or more of the gross revenues of the business. All adult establishments and all other businesses stocking any material depicting, exposing, simulating, describing or relating to Specified Sexual Activities or Specified Anatomical Areas shall make available all inventory records and all sales receipts and records for inspection by county staff upon request at all reasonable times.

#### 300.14.19.2.2 Adult Use. Any of the activities and businesses described below:

- a) “Adult Body Painting Studio” means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent to the body of a patron when the person is nude.
- b) “Adult Bookstore” means an establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived form items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- c) “Adult Cabaret” means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation,

display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

d) “Adult Companionship Establishment” means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

e) “Adult Conversation/Rap Parlor” means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

f) “Adult Health/Sport Club” means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

g) “Adult Hotel or Motel” means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

h) “Adult Massage Parlor/Health Club” means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

i) “Adult Mini-Motion Picture Theater” means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

j) “Adult Modeling Studio” means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

k) “Adult Motion Picture Arcade” means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

l) “Adult Motion Picture Theater” means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.

m) “Adult Novelty Business” means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or

derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.

n) “Adult Sauna” means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

o) “Adult Steam Room/Bathhouse Facility” means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

300.14.19.2.3 “Nude” or “Specified Anatomical Areas” means:

- a) Less than completely and opaquely covered human genitals, public regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

300.14.19.2.4 “Specified Sexual Activities” means:

- a) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia.
- b) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- d) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
- f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- g) Human excretion, urination, menstruation, or vaginal or anal irrigation.

300.14.19.3 Application of this Ordinance

Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose

nor in any manner which is not in conformity with this Ordinance.

No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the County of Sibley, 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, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

#### 300.14.19.4 Location

Adult Establishments are Conditional Uses in the B-Highway Service-Business District only. Adult Establishments must be located at least 1000 feet from: (a) any other district boundary; (b) any site actually used for residential purposes; and (c) any church site, school site, library site, daycare facility, park or playground. No Adult Establishment may be located within 1000 feet of another Adult Establishment.

For purposes of this Ordinance, this 1000 foot distance shall be a horizontal measurement from the nearest existing district boundary or lot line or site used for residential purposes, church, school, library, daycare, park or playground, or another Adult Establishment site to the nearest point of the proposed Adult Entertainment structure.

#### 300.14.19.5 Hours of Operation

No Adult Establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m. weekdays and Saturdays, nor at any time on Sundays or national holidays.

#### 300.14.19.6 Operation

300.14.19.6.1 Off-site Viewing. Any business operating as an Adult Establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes of local ordinances.

300.14.19.6.2 Entrances. All entrances to the business, with the exception of emergency fire exists that are not useable by patrons to enter the business shall be visible from a public right-of-way.

- 300.14.19.6.3 Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material or any live dancers or entertainers.
- 300.14.19.6.4 Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
- 300.14.19.6.5 Signs. Signs for Adult Establishments shall comply with the County's Ordinance for signs. Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
- 300.14.19.6.6 Parking. An adult Establishment shall provide a minimum of one off-street parking space per employee, the total minimum number of such parking spaces to equal the highest number of employees scheduled to work on any shift, and one off-street parking space per customer for the total number of customers for which the facility is designed at full occupancy. Each parking space shall be a minimum of 9 feet wide by 18 feet long plus sufficient driveway space to allow safe access to and from adjoining public right of ways.
- 300.14.19.6.7 Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
- a) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
  - b) No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.
  - c) The owner, operator or manager of an adult cabaret shall provide the following information to the County Zoning Administrator concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth and any aliases.
  - d) No dancer, live entertainer or performer shall be under 18 years old.
  - e) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
  - f) No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.
  - g) No dancer or performer shall fondly or caress any patron and no patron shall fondle or caress any dancer or performer.
  - h) No patron shall pay or give any gratuity to any dancer or performer.

i) No dancer or performer shall solicit or receive any pay or gratuity from any patron.

### 300.14.19.7 Licenses

300.14.19.7.1 Licenses Required. All Adult Establishments, including any Adult Establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the County of Sibley. A person or entity is in violation of this Ordinance if the person or entity operates an Adult Establishment without a valid license, issued by the County

300.14.19.7.2 Applications. An application for a license must be made on a form provided by the County and must include:

- a) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;
- b) The name, address, phone number, and birth date of the operator and manager of the Adult Establishment, if different from the owner's;
- c) The address and legal description of the premises where the Adult Establishment is to located;
- d) A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an Adult Establishment or adult business by the applicant operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;
- e) The activities and types 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 all internal operations and activities;
- i) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;
- j) A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and

found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building inspector;

k) The names, addresses, phone numbers, dates of birth of the owner, lessee, if any, the operator or manager and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and give accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business;

l) If the application is made on behalf of a corporation, joint business venture partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation; and

m) Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

### 300.14.19.7.3 Disqualifications.

a) All Adult Establishments, including any business operating at the time this Ordinance becomes effective, operating, or intending to operate an Adult Establishment shall be prohibited if the license fees and background investigation fees required by this Ordinance have not been paid.

b) All Adult Establishments, including any business operating at the time this Ordinance becomes effective, shall be prohibited if an applicant, operator, or manager has been convicted of a crime involving any of the following offenses:

- (1) Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;
- (2) Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

Less than two years elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

(3) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

300.14.19.7.4 Requalification. An applicant who has been convicted of an offense listed in SUBD 300.14.19.7.3(b) above, may qualify for an Adult Establishment license only when the time period required by Paragraph 300.14.19.7.3(b) has elapsed.

300.14.19.7.5 Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Establishment. The license shall be posted in a conspicuous place at or near the entrance to the Adult Establishment so that it may be easily read at any time.

300.14.19.7.6 An Adult Establishment license will not be granted to or held by a person:

- a) Who is under 21 years of age;
- b) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
- c) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or Adult Establishments;

- d) Who has been or is residing with a person who has been denied a license by the County or any other Minnesota municipal corporation to operate an Adult Establishment, or who has or is residing with a person whose license to operate an Adult Establishment has been suspended or revoked within the preceding twelve (12) months, or
- e) Who has not paid the license and investigative fees required by this Ordinance.

300.14.19.7.7 An Adult Establishment will not be granted for:

- a) Any Adult Establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this Ordinance, or where a license has been revoked for cause, until one year has elapsed after the conviction or revocation;
- b) Any Adult Establishment that is not in full compliance with the County Ordinances and all provisions of state and federal law; or
- c) Any premise that holds an intoxicating liquor, beer, or wine license.

#### 300.14.19.8 Fees

300.14.19.8.1 The license fee for Adult Establishments are as follows:

- a) The annual license fee is \$2,000.00.
- b) An application for a license must be submitted to the zoning administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the county will refund the license fee.
- c) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.
- d) No part of the fee paid by any licensee will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the county board within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
  - 1. Destruction or damage of the licensed premises by fire or other catastrophe;
  - 2. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed Adult Establishment;
  - 3. The licensee's death; or
  - 4. A change in the legal status making it unlawful for the licensed business to continue.
- e) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the county zoning administrator by the applicant or licensee. If such a change takes place during the investigation, it must

be reported to the county administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

300.14.19.8.2 The one-time non-refundable background investigative fee for an Adult Establishment license is \$500.00 and shall be charged for each person identified on the application as an owner, operator, or manager of the business and for each successor, owner, operator or manager.

300.14.19.8.3 The procedures for granting an Adult Establishment license are as follows:

- a) The County will conduct and complete an investigation within 30 days after the zoning administrator receives a complete application and all license and investigative fees.
- b) If the application is for a renewal, the applicant will be allowed to continue business until the county board has determined whether the applicant meets the criteria of this Ordinance for a renewal license.
- c) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the county board within 30 days after the investigation is completed. If the county board fails to act within 30 days after the investigation is completed, the application will be deemed approved.
- d) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the county board. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult Establishments existing at the time of the adoption of this section must obtain an annual license.

#### 300.14.19.9 Inspection

300.14.19.9.1 Access. An applicant or licensee shall permit health officials, representatives of the sheriff's department, fire department, and building inspector, to inspect the premises of an Adult Establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.

300.14.19.9.2 Refusal to Permit Inspections. A person who operates an Adult Establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the sheriff's department, fire department, and building inspector at any time it is occupied or open for business. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license as provided in Subdivisions 300.14.19.10, 300.14.19.11, and 300.14.19.12.

300.14.19.9.3 Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

300.14.19.9.4 Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the County upon request.

#### 300.14.19.10 Expiration and Renewal

300.14.19.10.1 Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in SUBD 300.14.19.7. Application for renewal must be made at least 60 days before the expiration date.

300.14.19.10.2 Denial of Renewal. When the County denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the County finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

#### 300.14.19.11 Suspension

300.14.19.11.1 Causes of Suspension. The County may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

- a) Violated or is not in compliance with any provision of this Ordinance.
- b) Engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel.
- c) Refused to allow an inspection of the Adult Establishment as authorized by this Ordinance.
- d) Knowingly permitted gambling by any person on the Adult Establishment premises.
- e) Demonstrated inability to operate or manage an Adult Establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

300.14.19.11.2 Notice. A suspension by the County shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

#### 300.14.19.12 Revocation

300.14.19.12.1 Suspended Licenses. The County may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended at least once before within the preceding 12 months.

300.14.19.12.2 Causes of Revocation. The County may revoke a license if it determines that:

- a) A licensee gave false or misleading information in the material submitted to the County during the application process;
- b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- c) A licensee or an employee has knowingly allowed prostitution on the premises;
- d) A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended.
- e) A licensee has been convicted of an offense listed in Paragraph 300.14.19.7.3.(b) , for which the time period required in Paragraph 300.14.19.7.3 (b), has not elapsed.
- f) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Paragraph 300.14.19.3 (b), for which a conviction has been obtained, and the person or persons were employees of the Adult Establishment at the time the offenses were committed.
- g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

300.14.19.12.3 Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

300.14.19.12.4 Exceptions. Paragraph 300.14.19.12.2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation,

masturbation, or sexual contact to occur in a public place or within public view.

300.14.19.12.5 Granting a License After Revocation. When the County revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the County finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked under Paragraph. 300.14.19.12.2 (e), an applicant may not be granted another license until the appropriate number of years required under Paragraph 300.14.19.7.3 (b) has elapsed.

300.14.19.12.6 Notice. A revocation by the County shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

### 300.14.19.13 Procedures

Issuances, suspensions, revocations, and non-renewals of Adult Establishment licenses are governed by the following provisions:

- a) In the event that the county board proposes to not renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The board will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The county board must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The board must notify the licensee of its decision within that period.
- b) If the board determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the board's action, the suspension or revocation is stayed until the conclusion of such action.
- c) If the County Board determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the County acted properly, the licensee may continue in business until the conclusion of the action.

d) If the County Board does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the County acted properly. The applicant may not commence doing business unless the action is concluded in its favor.

#### 300.14.19.14 Transfer of License

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Establishment under the authority of a license at any place other than the address designated in the application.

#### 300.14.19.15 Severability

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof. The County Board specifically declares that the licensing requirements in this Ordinance are severable from any and all of the other requirements of this Ordinance. The County Board further declares that it would have adopted the other requirements in this Ordinance regardless of the validity or invalidity of the licensing requirements.

#### 300.14.19.16 Penalty

Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty.

#### 300.14.19.17 Effective

This Ordinance shall be effective immediately upon its publication.

### SUBD 300.14.20 Wireless Telecommunications Towers and Antennas

300.14.20.1 Purpose: In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the County finds that these regulations are necessary in order to:

- 1) facilitate provision of wireless communications services to the residents and businesses of the county;
- 2) minimize adverse visual effects of towers through careful design and siting standards,

3) avoid potential damage to adjacent properties from tower failure through structural standards and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

300.14.20.2 making siting decisions for new towers, applicants should:

- a. Be sensitive to location of tower near a densely settled residential area;
- b. Be aware that the location of these facilities is allowed only with a conditional use permit.
- c. Consider locations for towers on parcels that have current conditional use permits for non-farm uses, in zoning districts that are primarily devoted to commercial or industrial uses, or on public lands where permissible and practical.

300.14.20.3 Co-location requirements – All commercial wireless telecommunication towers erected, constructed, or located within the county shall comply with the following requirements:

- a. Provide documentation of the area to be served including maps demonstrating size of communication cells and search rings for the antenna location. A narrative describing a search ring of not less than one mile radius for the requested site, clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
- b. Provide documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
  - 1) The planned equipment would exceed the structural capacity of the existing capacity or approved tower or building, as documented by a qualified professional radio frequency engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost, or
  - 2) The planned equipment would cause interference with other existing or planned equipment at the tower or building as documented by a qualified professional radio frequency engineer, and the interference cannot be prevented at a reasonable cost, or
  - 3) No existing or approved towers or commercial/industrial buildings within a one mile radius meet the radio frequency design criteria, or
  - 4) Existing or approved towers and commercial/industrial buildings within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonable as documented by a qualified professional radio frequency engineer, or

- 5) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- c. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures within a one-mile radius was made, but an agreement could not be reached.
- d. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically and in all respects to accommodate both the applicants antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is between 60 and 100 feet in heights. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying height.
- e. An agreement stating that the site will be designed for not less than three users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and county policy. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner and or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.

300.14.20.4 Minimum conditions on an antenna tower permit should include, but not be limited to following:

- a. An agreement providing for co-location and 6 month removal of unused and/or obsolete towers shall be attached and become part of the permit.
- b. The tower shall be set back a distance equal to the tower height from all property lines. All accessory structures shall be set back a minimum of fifty (50) feet from all side yard and rear yard property lines. All anchoring structures shall be set back at least 10 feet from all property lines.
- c. Zoning Permits shall be applied for and issued before any construction is started.
- d. Prior to application for a conditional use permit, applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.
- e. Applicant must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
- f. Applicant must submit proof of liability and Worker's Compensation insurance.
- g. Proof that towers and their antennas have been designed by, and following completion of construction were inspected by, a qualified and licensed professional engineer (at the applicant's expenses) to conform to applicable reviewing agencies and to conform with accepted electrical

engineering methods and practices as specified in applicable provisions of the National Electrical Code.

h. Metal towers shall be constructed of, or treated with, corrosive resistant material.

i. The addition of antennas and associated equipment of an additional provider to an existing permitted tower shall be considered co-location and shall require a zoning permit and site plan approval. An amendment to a conditional use permit shall typically not be required.

j. All towers shall be reasonably protected against unauthorized climbing. The area around the base of the tower and guy wire anchors shall be enclosed by a fence with a minimum height of six (6) feet chain link fence with a locked gate. A minimum of three (3) strands of barbed or razor wire shall be installed on top of the chain link fencing.

k. All towers and their antennas shall utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities within the surrounding natural setting and built environmentally to the greatest extent possible.

l. No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by Federal, State and local authorities.

m. Towers and their antennas shall not be illuminated by artificial means. Except for camouflage purposes or the illumination is specifically required by the Federal Aviation Administration or other authority.

n. No part of any antenna or tower, nor any lines, cable equipment, wires, or braces shall at any time extend across or over any part of the right of way, public street, highway, or sidewalk, without approval by the County through the zoning permit approval process.

o. All obsolete or unused towers and accompanying accessory facilities shall be removed within 6 months of the cessation of operations at the site unless a time extension is approved by the County Board. After the facilities are removed, the site shall be restored to its original or an improved state. Electronic equipment shall not be removed in advance of removal of obsolete or unused towers. Failure to remove the structure shall be cause for the County to remove the tower and associated equipment and assess the cost against the property for collection with the real estate taxes.

## **SUBD 300.14.21 SOLAR POWER MANAGEMENT STANDARDS**

### **300.14.21.1 PURPOSE**

The purpose of this SUBD is to set forth processes for permitting solar energy systems and to regulate the installation and operation of solar energy systems within Sibley County pursuant to Minnesota Statutes Chapters 216C.25, 500.30, and Minnesota Rules Chapter 1325.1100, as amended, in order to promote the health, safety, and general welfare of the citizens of

Sibley County.

#### **300.14.21.2 JURISDICTION**

The regulations of this SUBD shall apply to all the area of Sibley County outside the incorporated limits of municipalities.

#### **300.14.21.3 INTERPRETATION**

In interpreting and applying the provisions of this SUBD, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Where the provisions of this SUBD impose greater restriction than those of any statute, other ordinance or regulations, the provisions of this SUBD shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this SUBD, the provisions of such statute, other ordinance or regulation shall be controlling.

#### **300.14.21.4 EXEMPTIONS**

Solar arrays with a generator nameplate capacity under one (1) kilowatt, and solar thermal systems with a solar collector surface under fifty (50) square feet in area, are exempt from the requirements of this SUBD. Solar energy systems completed before the adoption of this SUBD are exempt from the requirements of this SUBD.

#### **300.14.21.5 DEFINITIONS**

The following words and phrases shall have the meanings ascribed to them in this SUBD. If not specifically defined in this SUBD or in SUBD 300.4.2 of the Sibley County Zoning Ordinance, terms used in this SUBD shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have their common usage meaning. For purposes of this SUBD, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**300.14.21.5.1.** Acreage or Area -- For the purpose of this SUBD, the acreage or area of a solar array shall be determined by the Zoning Administrator. The intent of this SUBD is that the acreage or area of a solar array, as determined by the Zoning Administrator, shall represent the land area used for the solar array. The acreage or area may include lanes or spaces between banks of solar panels, and the space contained within a perimeter fence surrounding the solar array, except that a residential fence shall not be construed as a perimeter fence under this section.

**300.14.21.5.2.** Array (Solar) -- Any number of solar photovoltaic modules or panels connected together to provide a single electrical output, or solar thermal collectors connected together to provide a single output.

**300.14.21.5.3.** 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.

**300.14.21.5.4.** Ground Mounted Solar Energy System -- Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.

- 300.14.21.5.5.** Large Solar Energy System -- A solar array designed for wholesale production and sale of power where the primary land use of the parcel is for a solar energy system. Any solar energy system rated over 40 kw.
- 300.14.21.5.6.** Module (Solar) -- A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple modules/panels can be assembled into an array for increased power and/or voltage.
- 300.14.21.5.7.** Photovoltaic Array -- A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.
- 300.14.21.5.8.** Photovoltaic Device -- A system of components that generates electricity from sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.
- 300.14.21.5.9.** Power Purchase Agreement -- A legally enforceable agreement between two or more persons or entities where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.
- 300.14.21.5.10.** Roof or Building Mounted Solar Energy System -- A solar energy system that is mounted to the roof or building using brackets, stands or other apparatus.
- 300.14.21.5.11.** Small Solar Energy System -- A solar array that is an accessory use in which the energy produced is first used on-site before any excess energy produced is sold back to the operator's regular electrical service provider. Small solar energy systems include solar thermal systems that are designed to provide heat or energy on-site. Small solar energy systems are limited to systems rated 40 kw or less.
- 300.14.21.5.12.** Solar cell -- The basic unit of a photovoltaic solar panel.
- 300.14.21.5.13.** Solar Collector -- A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- 300.14.21.5.14.** 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 skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.

**300.14.21.5.15.** Solar energy system -- A device or set of devices, a substantial purpose of

which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, or water heating.

**300.14.21.5.16.** Solar Thermal System -- A system that includes a solar collector and a heat exchanger that heats or preheats water or air for building heating systems or other heat or hot water needs.

**300.14.21.5.17.** Tracking Solar Array -- A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

**300.14.21.6. PERMIT REQUIRED**

Land Use Permits, Conditional Use Permits, and Variances shall be applied for and reviewed under the procedures established by Sibley County Ordinance and Minnesota Statutes Chapter 394. A Land Use Permit must be obtained from the Zoning Administrator by the landowner prior to construction or installation of any solar energy system that is subject to this Ordinance.

**300.14.21.6.1.** An application for a permit under this section for a solar energy system is not complete unless it contains the following:

- a. Address, township, section number, and legal description of the property on which the solar energy system is proposed to be installed.
- b. General description of the solar energy system, including type, size (area) of the array, generator nameplate capacity, and total height.
- c. Setbacks from property lines, public ditches and tile lines, road rights-of-way, neighboring dwellings, and natural waterways.
- d. A site plan showing the existing property lines, existing buildings, and the proposed location of the solar energy system on the parcel.

**300.14.21.6.2.** In addition to the permit application requirements in 300.14.21.6.1 above, an application for a permit under this section for a Large Solar Energy System is not complete unless it contains the following:

- a. A site plan of existing conditions showing the following:
  1. The names of the adjacent property owners and current use of those properties.
  2. Existing public and private roads, showing widths of the roads and any associated easements.
  3. Location and size of any abandoned wells, sewage treatment systems and dumps.
  4. Topography at 2' intervals (or less) and source of contour interval.
  5. Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)

6. Waterways, watercourses, lakes and public water wetlands.
  7. The 100-year flood elevation and Regulatory Flood Protection Elevation, if available. Floodway, flood fringe, and/or general flood plain district boundary, if applicable.
  8. The shoreland district boundary, the ordinary high water level and the highest known water level, and the toe and top of any bluffs within the project boundaries, if any portion of the project is located in a shoreland district.
  9. Surface water drainage patterns.
- b. A site plan of proposed conditions showing the following:
1. Approximate location and spacing of solar panels.
  2. Location of access roads.
  3. Proposed location of underground or overhead electric lines connecting the large solar energy system 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 large solar energy system.
  5. Proposed erosion and sediment control measures.
  6. Proposed stormwater management measures.
- c. Proposed specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks, if known.
- d. A description of the method of connecting the array to a substation.
- e. A decommissioning plan ensuring that facilities are properly removed in the event they are not in use for 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. The Board shall require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

**300.14.21.7 DISTRICT REGULATIONS**

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

District	Small Solar Energy System	Large Solar Energy System
1. Special Protection Shoreland	P if under 1 acre; C if 1 acre or larger	C
2. Residential-Recreation Shoreland	P if under 1 acre; C if 1 acre or larger	C
3 Conservation and Agriculture	P if under 1 acre; C if 1 acre or larger	C
4. General Agriculture	P if under .25 acres in area; C if .25 acres or larger	C
5. Suburban Residence	P if under .25 acres in area; C if .25 acres or larger	NP
6. Highway Service Business	P if under .25 acres in area; C if .25 acres or larger	C
7. Industry	P if under .25 acres in area; C if .25 acres or larger	C

Nothing herein shall be construed to exempt a solar energy system from the regulations, requirements, and standards of the District in which it is located. Solar energy systems are not permitted in the Flood District and its subdistricts.

**300.14.21.8 SETBACKS AND STANDARDS**

**300.14.21.8.1.** Solar energy systems shall be subject to the structure setbacks set forth in each respective Zoning District in respect to property lines, road right-of-way lines, County tile lines, and County and Joint Ditches.

- a. The Zoning Administrator may waive the joint and county tile line setback requirements upon a written recommendation approving such waiver from the Sibley County Drainage Inspector. Such waiver will take into consideration the depth of the tile, the structural integrity of the tile, the soil characteristics, the location of the tile to surrounding structures, and any other information deemed to be of importance. The written waiver, if approved, shall state that by reducing the minimum setback requirement the project will not negatively affect the structure or utility of the tile and will not create problems for the future maintenance or relocation of the tile.

**300.14.21.8.2.** Any ground mounted solar energy system larger than .25 acres in area must be located at least 150 feet away from any dwelling, other than the project owner's dwelling.

**300.14.21.8.3.** Standards for all Solar Energy Systems.

- a. Height. Solar energy systems are subject to the following height requirements:
  - 1. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height for structures in the zoning district in which the system is being installed, and shall not extend more than 10 feet above the building or roof on which they are mounted.
  - 2. Ground or pole-mounted solar energy systems shall not exceed 35 feet in height when oriented at maximum tilt, except that in the Suburban Residence District ground or pole-mounted solar energy systems shall not exceed 8 feet in height.
- b. Location within Lot. Solar energy systems must meet the accessory structure setback for the zoning district.
  - 1. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar thermal systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - 2. Ground-mounted Solar Energy Systems.
    - i. Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
    - ii. Ground-mounted solar energy systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA Construction Stormwater Permit Requirements.
- c. Suburban Residence District.
  - 1. The total solar collector surface area of pole or ground mount

solar energy systems in the Suburban Residence District shall not exceed ten percent of the lot area.

2. Ground-mounted or pole-mounted solar energy systems shall not exceed 8 feet in height when oriented at maximum tilt.
  3. Ground-mounted or pole-mounted solar energy systems shall be fully screened from neighboring residential properties.
- d. Building and roof-mounted solar energy systems cannot be installed without a written certification of a qualified engineer or building inspector licensed by the State of Minnesota that the building or roof is structurally capable of bearing the solar energy system.
  - e. Approved Solar Components. Electric solar energy system components must have an Underwriters Laboratory (UL) listing.
  - f. Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electric Code.
  - g. Utility Notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the Zoning 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.
  - h. Vegetative screening or buffering of the solar energy system may be required as part of the conditions of approval. Screening or buffering shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way.

**300.14.21.8.4. Standards for Large Solar Energy Systems.**

- a. Stormwater Management and Erosion and Sediment Control shall meet the requirements of the MPCA Construction Stormwater Permit requirements.
- b. 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 climate conditions.
- c. Other standards and codes. All Large Solar Energy Systems shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
- d. Power and communication lines. Power and communication lines

running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground, to the extent practicable.

- e. Wetlands. All Large Solar Energy Systems shall be in compliance with all applicable federal, state, and local wetland laws, rules, and regulations and shall provide copies of all wetland permits obtained in connection with the Large Solar Energy System to Sibley County upon request.

### **300.14.21.9. DECOMMISSIONING**

In the event that a solar energy system is unused or abandoned for a period of 12 consecutive months, the solar energy system must be removed by the system owner or landowner.

**300.14.21.9.1.** All structures and foundations must be completely removed and the soil and vegetation restored.

**300.14.21.9.2.** Removal must occur within 90 days of a determination that the solar energy system is unused or abandoned, unless a plan is developed and submitted to and approved by the Zoning Administrator outlining the steps and schedule for returning the system to service or for decommissioning the solar energy system.

**300.14.21.9.3.** Disposal of structures, foundations, and any other equipment or material must conform to federal, state, and local laws, rules, and ordinances.

## **SECTION 300.15 - CONDITIONAL USE PERMITS**

SUBD 300.15.1 Application.

300.15.1.1 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.

300.15.1.2 Application: An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The application shall be accompanied by such plans and elevations and site plans as prescribed by the County Planning Commission.

300.15.1.3 Township Notice of Application

a. Every applicant for a Conditional Use Permit shall receive a Township Notification form from the Planning & Zoning Administrator. The Township Notification form shall be in a form as prescribed by the Board of County Commissioners. The applicant shall present the Township Notification form to the effected township board for consideration at its next meeting and return it to the Planning and Zoning Administrator within 45 days of

presentation. Failure of the township board to return the form shall be considered approval by the township board of the application. Upon receipt of the Township Notification form or passage of the 45 days, the application shall be set on for public hearing as provided in SUBD 300.15.2.

b. No Township Notification is necessary if the township has enacted its own zoning ordinance and issues zoning permits.

#### SUBD 300.15.2 Notification and Public Hearing

300.15.2.1 Upon receipt in proper form of the application and other requested material, the Sibley County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. 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. All property owners within three hundred (300) feet and the town board so affected, shall be notified by U.S. mail as to the time and place of the public hearing. All municipalities within one and one-half (1 1/2) miles of the proposed conditional use shall be given proper notice.

300.15.2.2.1 Whenever any conditional use permit is applied for in any Flood Plain Zone, in addition to the notice specified in paragraph 1 of this subdivision, the zoning administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for the proposed conditional use sufficiently in advance so that the commissioner will receive at least ten (10) days notice of the hearing.

#### SUBD 300.15.3 Report to the County Board

For each 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 compiled with when they are deemed necessary for the protection of the public interest. 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.

#### SUBD 300.15.4 Findings

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

300.15.4.1 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

- 300.15.4.2 That 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.
- 300.15.4.3 That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- 300.15.4.4 That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 300.15.4.5 That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

#### SUBD 300.15.5 Fees

To defray administrative costs of processing requests for Conditional Use Permits, a fee shall be paid by the applicant. Such fee shall be established by the Board of County Commissioners.

#### SUBD 300.15.6 Compliance

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

#### SUBD 300.15.7 Procedures for Evaluating Proposed Conditional Uses within the General Flood Plain District

- 300.15.7.1 Upon receipt of an application for a conditional use permit for a use within the general flood plain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the County Board of Commissioners for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.
  - a. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation

upstream and downstream; and soil type.

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

- 300.15.7.2 One copy of the above information shall be transmitted 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 and to determine the regulatory flood protection elevation. Procedures consistent with the Minnesota Regulations NR 86-87 shall be followed in this expert evaluation. The designated engineer or expert shall:
- a. Estimate the peak discharge of the regional flood.
  - b. Calculate the water surface profile of the regional flood base upon a hydraulic analysis of the stream channel and over bank areas.
  - c. Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- 300.15.7.3 Based upon the technical evaluation of the designated engineer or expert, the County Board of Commissioners shall determine whether the proposed use is in the floodway or flood fringe and the regulatory flood protection elevation at the site.
- 300.15.7.4 Procedures to be followed by the County Board of Commissioners in passing on conditional use permit applications within all flood plain districts are as follows:
- a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Board of Commissioners for determining the suitability of the particular site for the proposed use.
    - 1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials flood-proofing measures, and the relationship of the above to the location of the stream channel.
    - 2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - b. Transmit one copy of the information described in subsection a. above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - c. Based upon the technical evaluation of the designated engineer or expert, the County Board of Commissioners shall determine the specific flood

hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

- 300.15.7.5. Factors upon which the decisions of the County Board of Commissioners shall be based. In passing upon conditional use applications, the County Board of Commissioners shall be based. In passing upon conditional use applications, the County Board of Commissioners shall consider all relevant factors specified in other sections of this ordinance, and the following:
- a. The danger to life and property due to increased flood heights or velocities caused by encroachment.
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the service provided by the proposed facility to the county.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - l. Such other factors which are relevant to the purposes of this ordinance.
- 300.15.7.6 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the County Board of Commissioners shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- a) Modification of waste treatment and water supply facilities.
  - b) Limitations on period of use, occupancy and operation.
  - c) Imposition of operational controls, sureties, and deed restrictions.
  - d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - e) Flood-proofing measures, in accordance with the state building code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are

consistent with regulatory flood protection elevation and associated flood factors for the particular area.

300.15.7.7 A copy of all decisions granting conditional use permits in flood plains shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

SUBD. 300.15.8 Permit Time Length

A Conditional Use permit shall be substantially implemented within two (2) years of the date of issuance or reapplication will be required.

**SECTION 300.16 NON-CONFORMING USES**

SUBD. 300.16.1 Non-Conforming Buildings and Uses

SUBD. 300.16.1 Nonconforming Use Standards for all Districts

300.16.1.1 Unless provided otherwise in this Ordinance, any use existing on the effective date of this Ordinance which is not in conformity with the standards contained in this Ordinance shall only be allowed to continue subject to the following conditions:

- a. No such use shall be expanded, enlarged or altered, including any increase in volume, intensity or frequency of use of the property where a nonconforming use exists. Except as provided in SUBD. 300.16.2 of this Ordinance, structural alterations, expansions and additions to a structure devoted in whole or part to a nonconforming use are prohibited.
- b. A change from one nonconforming use to another nonconforming use is prohibited.
- c. A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming.
- d. A nonconforming use that has been discontinued for a period of twelve (12) consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance.
- e. If a structure used for a nonconforming use is destroyed by fire or other peril to the extent of 50 percent of its market value as indicated in the records of the county assessor at the time of damage, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

## SUBD. 300.16.2 Nonconforming Structures

300.16.2.1 Nonconforming Structure Standards for all Districts. Unless provided otherwise in Section 300.16.1.1 of this Ordinance, any structure existing on the effective date of this Ordinance which is not in conformity with the setback, size or height requirements contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:

The continuation of a nonconforming structure is allowed through repair, replacement, restoration, maintenance, or improvement, but not expansion, of the nonconforming structure. Expansion of a nonconforming structures in any manner, including but not limited to expansion of height, width, footprint, size, or bulk, is allowed only in accordance with the Ordinance.

a. For seasonal recreational or residential homestead nonconforming structures, if the nonconformity or occupancy of a nonconforming structure is discontinued for more than one year, or the structure is damaged by fire or other peril to the extent of fifty (50) percent or more of its market value as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the structure was damaged, it shall be removed, and any construction thereafter shall be in compliance with the provisions of this Ordinance. If a building permit has been applied for within 180 days of when the structure was damaged, reasonable conditions may be placed upon the zoning or building permit in order to mitigate any newly created impacts on adjacent properties or water bodies.

b. For non-seasonal recreational or non-residential homestead nonconforming structures, if the nonconformity or occupancy of a nonconforming structure is discontinued for more than one year, or the structure is damaged by fire or other peril to the extent of fifty (50) percent or more of its market value as indicated in the records of the county assessor at the time of damage, it shall be removed, and any construction thereafter shall be in compliance with the provisions of this Ordinance. Normal maintenance, including non-structural maintenance and repair, except structural alteration of a nonconforming structure, is permitted.

300.16.2.2 Nonconforming Structure Standards in the Flood Plain District. In addition to the standards for nonconforming structures set forth in Section 300.16.2.1 of this Ordinance, the following additional requirements shall apply in the Flood Plain District.

a. Additions and alterations to nonconforming structures shall be protected to the Regulatory Flood Protection Elevation in accordance with

any of the elevation on fill or floodproofing techniques allowable in the State Building Code.

b. The cost of all structural alterations or additions allowed in paragraph above, to a nonconforming structure shall not exceed 50 percent of the market value of the structure as indicated in the records of the county assessor at the time of the damage, unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the County's initial floodplain controls shall be calculated into today's current cost which shall include all costs such as construction materials and reasonable cost placed on all labor. If the current cost of all previous alterations and additions exceeds 50 percent of the market value of the structure, then the entire structure shall comply with the standards contained in this Ordinance for new structures.

300.16.2.3 Nonconforming Structure Standards in the Shoreland Districts. In addition to the standards for nonconforming structures set forth in Section 300.16.2.1 of this Ordinance, the following additional requirements shall apply in the S-1 Special Protection Shorelands District and S-2 Residential-Recreation Shorelands District.

a. Additions or alterations to a nonconforming accessory structure shall not be allowed unless the addition or alteration meets the minimum setback requirement for the applicable classification.

### SUBD. 300.16.3 Non Conforming Lots

#### 300.16.3.1 Parcel of Record

All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a Parcel of Record. A Parcel of Record shall be legally buildable parcel even though such parcel may not conform to the lot area, lot width or residential density requirements of the applicable district, provided all of the following are met:

- a. The use is permitted in the applicable zoning district; and
- b. In any Shoreland District, the lot or tract has been in separate ownership from abutting lands at all times since it became nonconforming; and
- c. In any Shoreland District, the impervious surface coverage does not exceed twenty-five (25) percent of the lot; and
- d. The lot was created compliant with the official controls in effect at the time; and
- e. The applicable setback requirements of this Ordinance are met; and
- f. The sanitary provisions contained in this Ordinance are met.

### 300.16.3.2 Residual Parcels

A parcel of record, as defined above, that is subsequently reduced to a residual parcel because of a taking or dedication for a public purpose or public right of way shall continue to be considered a parcel of record and shall be considered a legally buildable parcel provided the applicable setback requirements of this Ordinance and the sanitary provisions contained in this Ordinance are met.

### 300.16.3.3 Combined Lots or Parcels in Shoreland District

If, in a group of two (2) or more contiguous lots or parcels under the same ownership, any individual lot or parcel does not meet the lot area or width requirements set forth in this Ordinance, the lot or parcel shall not be considered as a separate lot or parcel for the purposes of sale, transfer or development; and the lot or parcel shall be combined with one or more contiguous lots or tracts so that together, they equal one or more lots or tracts, each meeting the requirements of this Ordinance.

a. Contiguous lots under the same ownership are exempt from this paragraph and may be considered as separate parcels for the purposes of sale, transfer or development if each individual lot meets all of the following requirements:

- (1) The lot meets at least sixty-six (66) percent of the dimensional standards for lot width and lot size for the Shoreland District within which it lies; and
- (2) The lot must be connected to a public sewer if available, or must be suitable for the installation of a Type 1 subsurface sewage treatment system meeting the standards contained in this ordinance.
- (3) Impervious surface coverage does not exceed twenty-five (25) percent of the lot; and
- (4) Development of the lot is consistent with the Sibley County Comprehensive Land Use Plan.

b. Contiguous lots under the same ownership are exempt from this paragraph and may be considered as separate parcels for the purposes of sale, transfer or development if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are served by a public sewer if available, or suitable for the installation of a sewage treatment system meeting the standards contained in this Ordinance.

c. In Shoreland Districts, a portion of a conforming lot may be separated from an

existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

#### 300.16.3.4 Standards for Applications Involving Nonconformities in Shoreland Districts

In evaluating all variances, zoning and building permit applications, or conditional use requests for nonconformities in Shoreland Districts, the County shall require the property owner to address, when appropriate:

- (1) Stormwater runoff management;
- (2) Reducing impervious surfaces;
- (3) Increasing setbacks;
- (4) Restoration of wetlands;
- (5) Vegetative buffers;
- (6) Sewage treatment and water supply capabilities; and
- (7) Other conservation-designed actions.

### **SECTION 300.17 ZONING PERMITS, AND UTILITY PERMITS**

#### SUBD 300.17.1 Zoning Permit

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

300.17.1.2 Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following:

- a. State and/or federal permits, if applicable, and/or township zoning permits, if applicable.
- b. A sketch plan showing dimensions, sizes and location of existing and proposed structures, containing setback distances and reference to specific reference points. Existing or proposed fill or storage of materials, and the location in relation to any stream channel shall be shown, if applicable. If there is an existing plat and/or survey, the plan must be submitted on a copy of said plat or survey.
- c. A site survey completed by a licensed surveyor, containing the same information, may be submitted in lieu of the sketch plan.
- d. For any proposed structure, the applicant must set stakes at the structure corners at the time of application, unless the Zoning Administrator waives

this requirement. The Zoning Administrator may conduct compliance inspections as deemed necessary.

- 300.17.1.3 State, Federal and Township Permits. All State and Federal permits, and Township zoning permits shall be obtained by the applicant before making application to the Zoning Administrator.
- 300.17.1.4 Certificate of Zoning Compliance for animal feedlots are covered in that section.
- 300.17.1.5 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Zoning permits, Conditional Use Permits, or Certificates of Zoning Compliances issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by SECTION 300.21 of this Ordinance.
- 300.17.1.6 Permit Time Length

A zoning permit shall be substantially implemented within two years of the date of issuance or reapplication will be required.

- 300.17.1.7 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- 300.17.1.8 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

#### SUBD 300.17.2 Utility Permits

- 300.17.2.1 Before any underground or above ground utility, such as power lines, telephone lines, sanitary or storm sewer lines, water lines, gas lines, fire lines, etc., is installed in any County highway or County State Aid Highway, a permit shall be obtained from the County Engineer. The

application for the new utility permit shall be accompanied by such plans, drawings and as-built drawings as deemed necessary by the County Engineer.

Utility permits along town roads or city streets shall be the responsibility of the local road authority. The County Engineer may provide assistance to the local road authority.

- 300.17.2.2 Where such utility lines are along Highways and roads, such utility lines may be required to be built in the right-of-way.
- 300.17.2.3 Except that such utility permits shall not be required to maintain, reconstruct, or relocate existing lines or maintain pole line anchors where the general line established in the original permits is maintained, or such line is in existence at the time of the adoption of this Ordinance.
- 300.17.2.4 Public utility buildings not customarily considered industrial in use, as well as electric substations and similar utility structures, are permitted in the Industry District and may be constructed in all other districts, except any Special Protection Shorelands District, if a Conditional Use Permit is granted under SECTION 300.15. However, no such facilities shall be constructed within fifty (50) feet of any line of an abutting lot in any RESIDENCE DISTRICT.
- 300.17.2.5 Since transmission services, [i.e., utility service such as high voltage (35 KV or greater) electrical power or bulk gas or fuel being transferred from station to station and not intended for in-route consumption,] may have an effect on County land uses, the owner of the proposed services shall, prior to any condemnation or construction, comply with the following:
- a. The owner shall file with the Zoning Administrator such maps indicating the location, alignment, and type of service proposed as shall be requested.
  - b. Maps and accompanying data on location and alignment of the transmission services shall be submitted to the County Planning Commission for review and recommendations regarding the relationship between the proposed transmission services and the County land uses along the proposed route.
  - c. Following such review, the County Planning Commission shall make a report of its findings and recommendations on the proposed transmission services and shall file such report with the County Board.
  - d. Upon receipt of the report of the County Planning Commission, the Board of County Commissioners shall consider the maps and accompanying data and shall either approve the proposed route or make modifications considered desirable under this Ordinance. The Board shall transmit to the owner in writing any modifications and the reason for such modifications. The owner shall not construct any service along any route not approved by the County.

e. No filing shall be necessary to maintain, reconstruct, or relocate existing lines or facilities where the general line and confirmation thereof remain essentially the same. Recognizing a need for timely and adequate service by owners of transmission services, the County shall act upon any filing within forty-five (45) days of receipt by the Zoning Administrator. Failure to act within such time shall constitute approval.

SUBD 300.17.3 Deadlines for County Action Regarding Applications for Variances, Amendments, Rezonings, and Appeals

- 300.17.3.1 When all application requirements have been complied with and the request is considered as officially submitted, the County must, except as otherwise provided herein and notwithstanding any other law to the contrary, approve or deny within 60 days. Failure to do so results in automatic approval of the request. A denial must include a written reason.
- 300.17.3.2 In requesting additional information from the applicant, the County must do so in writing, within 30 business days of the original application (or follow-up submittal) in order to start the 60-day limit over.
- 300.17.3.3 If an action requires the approval of more than one state agency in the executive branch, the 60-day period begins to run for all executive branch agencies on the day a request containing all required information is received by one state agency. The agency receiving the request must forward copies to other agencies whose approval is required.
- 300.17.3.4 The time limit is extended if a state statute, federal law, or court order requires a process to occur before the agency acts on the request, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of an agency receiving a request is not considered a process for purposes of this paragraph.
- 300.17.3.5 The time limit is extended if: (1) a request submitted to a state agency requires prior approval of a federal agency, or (2) an application submitted to a city, county, town, school district, metropolitan, or regional entity, or other political subdivision requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to 60 days after the required prior approval is granted.
- 300.17.3.6 The county may extend the timeline before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated

length, which may not exceed 60 days unless approved by the applicant.

## **SECTION 300.18 ADMINISTRATION AND ENFORCEMENT**

### **SUBD 300.18.1 Zoning Administrator**

- 300.18.1.1 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.
- 300.18.1.2 The duties of Zoning Administrator shall include the following:
- a. Enforce and administer this Ordinance;
  - b. Issue Building Permits, Zoning Permits, and other permits/certificates as provided herein 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;
  - e. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this Ordinance;
  - f. Provide and maintain a public information bureau relative to matters arising out of this Ordinance; and
  - g. Maintain the County Zoning Map.

### **SUBD 300.18.2 Enforcement**

- 300.18.2.1 It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels.
- 300.18.2.2 When any work shall have been stopped by the Zoning Administrator whatsoever; it shall not again be resumed until the reason for the work stoppage has been completely removed.
- 300.18.2.3 It shall be the duty of the County Attorney and the Sheriff of Sibley County when called upon by the Board of County Commissioners, to perform such duties as may be necessary to enforce the provisions of this Ordinance.

### SUBD 300.18.3 Fees

- 300.18.3.1 The Board of County Commissioners shall establish such fee schedules for such permits or requests as it deems fit.

### SUBD 300.18.4 Submissions to Board

- 300.18.4.1 Any written documentation (letters, petitions, etc.) submitted by a non-applicant for a permit must meet the following standards:
- a. Must state specific facts.
  - b. Must contain a statement who drafted the document or the draftsman must be evident from the text.
  - c. All signatures to a document must include the printed or typed name, address, phone number and county of residence.
  - d. Strict compliance with these standards may be waived by the board as it deems appropriate.
- 300.18.4.2 Any written documentation must be presented to the Zoning Administrator at least 5 days before the scheduled meeting. The Zoning Administrator will inform the board of the written documentation and make it available to the board.
- 300.18.4.3 The Zoning Administrator will determine if the written documentation complies with the requirements of this subdivision.

### SUBD 300.18.5 County Planning Commission

- 300.18.5.1 A County Planning Commission is hereby established and vested with such authority as herein provided and as provided by Minnesota Statutes Chapter 394, as amended. Such Commission shall consist of six (6) members, with only one (1) member being an elected commissioner, plus one (1) alternate member. No board member, except the elected commissioner, shall be an elected officer of the County, employee of the County, or a township planning and zoning board member. The elected commissioner member will be appointed by the County Board annually. The other members will be appointed by the County Board, for a three (3) year term in January of each year. A member may serve a maximum of three (3) consecutive terms. The Commissioner members shall be paid compensation and necessary expenses as determined by the County Board. The members may be removed by the County Board of Commissioners for nonperformance of duty or misconduct, after notice and opportunity to be heard. The County Board will appoint to fill vacancies on the Planning Commission. The alternate member shall attend meetings and participate when directed and authorized by the chair of the Board. The Zoning Administrator or designee shall act as secretary to the commission.

300.18.5.2 The Planning Commission shall elect a chairman and vice-chairman from among its members. It shall adopt rules for the transaction of its business as it deems necessary and shall keep a record of transactions, findings and determinations.

SUBD 300.18.6 Environmental Impact Statement or Environmental Assessment Worksheet Costs

300.18.6.1 If an Environmental Impact Statement (EIS) is required, whether by statute, rule or ordinance, the reasonable costs of preparing and distributing the EIS shall be the responsibility of the proposer of the action. At least one-half of the projected costs shall be paid before preparation of the EIS is commenced.

300.18.6.2 If an Environmental Assessment Worksheet (EAW) is required, whether by statute, rule or ordinance, the reasonable costs of preparing and distributing the EAW shall be the responsibility of the proposer of the action or such person or entity requesting the EAW, as determined by the county board. At least one-half of the projected costs shall be paid before preparation of the EAW is commenced.

## **SECTION 300.19 BOARD OF ADJUSTMENT**

SUBD 300.19.1 Creation and Membership

300.19.1.1 A Board of Adjustment is hereby established and vested with such authority as herein provided and as provided by Minnesota Statutes, Chapter 394, as amended. Such board shall consist of one (1) member of the County Planning Commission and two (2) other members, plus, one (1) alternate member. No board member shall be an elected officer of the County, employee of the County, or a township planning and zoning board member. The three (3) board members and alternate member shall be appointed by the County Board of Commissioners. The Board shall be paid compensation and necessary expenses as determined by the County Board. The Board members shall be appointed for terms coinciding with terms on the County Planning Commission. The Zoning Administrator or designee shall act as secretary of the Board. The members may be removed by the County Board of Commissioners for nonperformance of duty or misconduct, after notice and opportunity to be heard. The County Board will appoint to fill vacancies on the Board of Adjustment. The alternate member shall attend meetings and participate when directed and authorized by the chair of the Board.

300.19.1.2 The Board of Adjustment shall elect a chairman and vice chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of transactions, findings and determinations.

300.19.1.3 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.

#### SUBD 300.19.2 Powers

300.19.2.1 The Board of Adjustments shall have power to grant a variance adjustment in and exception to any of the provisions of this Ordinance to the extent of the following and no further:

a. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties in the strict application of the Ordinances:

“Practical Difficulties” means:

(1) The property owner proposes to use the property in a reasonable manner not permitted by ordinance, AND

(2) The landowner’s plight is due to circumstances that are unique to the property and are not created by the landowner, AND

(3) A variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. No variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this Ordinance.

b. To interpret zoning district boundaries on official zoning maps.

c. To permit the extension of a zoning district where the boundary line thereof divides a lot in one ownership at the time of the passage of this Ordinance, but such extension of any district shall not exceed one hundred (100) feet.

300.19.2.2 The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by administrative official charged with enforcing any ordinance adopted pursuant to the provisions of Minnesota Statutes SECTION 394.21 to 394.37, as amended.

#### SUBD 300.19.3 Appeals

300.19.3.1 Any aggrieved person, firm or corporation objecting to the ruling of any administrative official on the administering of the provisions of this Ordinance or other ordinance adopted pursuant to the provisions of

Minnesota Statutes SECTIONS 394.21 to 394.37, as amended, shall have the right to appeal to the Board of Adjustment.

300.19.3.2 Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of a town, municipality, county or state.

300.19.3.3 The decision of the Board shall not be final, and any person having an interest affected by such Ordinance shall have the right to appeal to the District Court.

#### SUBD 300.19.4 Findings

The Board of Adjustment shall not grant an appeal 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:

300.19.4.1 That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to the property in the same vicinity.

300.19.4.2 That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

#### SUBD 300.19.5 Procedure

300.19.5.1 Application for any appeal permissible under the provisions of this SECTION shall be made to the Board of Adjustment in the form of a written application for a Building Permit or for a permit to use the property or premises as set forth in the application. Upon receipt of any application, the Board of Adjustments shall set a time and place for a public hearing before the Board on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.

300.19.5.2 When any proposed variance is considered in a flood plain district, the board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten (10) (SUBD. 300.11.5) days' notice of the hearing.

300.19.5.3 Decisions. The board shall arrive at a decision on such appeal or variance within 15 days. In passing upon an appeal, the board may, so long as such

action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from. It shall make its decision in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the board may prescribe appropriate conditions and safeguards such as those specified in SECTION 300.15 which are in conformity with the purposes of this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance punishable under SECTION 300.21.

- 300.19.5.4 No variance shall have the effect of allowing in any district uses prohibited in the 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.
- 300.19.5.5 A copy of all decisions granting variances in flood plains shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- 300.19.5.6 Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:
- a). The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
  - b) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances insured in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.
- 300.19.5.7 Township Notice of Application
- a. Every applicant for a Variance shall receive a Township Notification form from the Planning & Zoning Administrator. The Township Notification form shall be in a form as prescribed by the Board of County Commissioners. The applicant shall present the Township Notification form to the effected township board for consideration at its next meeting and return it to the Planning and Zoning Administrator within 45 days of presentation. Failure of the township board to return the form shall be considered approval by the township board of the application. Upon receipt of the Township Notification form or passage of the 45 days, the application shall be set on for public hearing as provided in SUBD 300.19.2.
  - b. No Township Notification is necessary if the township has enacted its own zoning ordinance and issues zoning permits.

## **SECTION 300.20 AMENDMENT**

### **SUBD. 300.20.1 Application**

300.20.1.1 This Ordinance may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this SECTION.

300.20.1.2 Proceedings for amendment of this Ordinance shall be initiated by:

- a. A petition of the owner or owners of the actual property;
- b. A recommendation of the County Planning Commission;
- c. Or by action of the Board of County Commissioners.

300.20.1.3 An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accomplished by a map or plat showing the lands proposed to be changed and all lands within three hundred (300) feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the same appears on the records of Sibley County.

300.20.1.4 All property owners within three hundred (300) feet shall be notified as to the time and place of the public hearing. All municipalities within one and one-half (1-1/2) miles of the boundaries of the property proposed to be rezoned and the township within which the property proposed to be rezoned is located shall be given proper notice.

### **SUBD 300.20.2 Public Hearing**

300.20.2.1 Upon receipt in proper form of the application and other requested material, the Sibley County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. At least (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 and notice given as other wise provided by law.

### **SUBD 300.20.3 Authorization**

300.20.3.1 Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the

Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action without awaiting such recommendation.

300.20.3.2 Upon the filing of such report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if four-fifths (4/5) of all the members of the Board concur in its passage.

#### SUBD 300.20.4 Fees

300.20.4.1 To defray the administrative cost of processing a request for an amendment to this Ordinance, a fee not exceeding administrative costs shall be paid by the petitioner. Such fee shall be determined by the Board of County Commissioners.

#### SUBD 300.20.5 Amendments to the flood plain designation

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

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

### **SECTION 300.21 VIOLATIONS, PENALTIES AND ENFORCEMENT**

#### SUBD. 300.21.1 Violations and Penalties

300.21.1.1 Any person, entity, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions

hereof or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00)and/or by imprisonment not to exceed ninety (90) days. Each day that a violation continues shall constitute a separate offense.

#### SUBD 300.21.2 Enforcement

- 300.21.2.1 This Ordinance shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.
- 300.21.2.2 In the event of a violation or a threatened violation of this Ordinance, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- 300.21.2.3 Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.
- 300.21.2.4 Nothing herein contained shall prevent the Board of County Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
- a. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The county must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - b. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
  - c. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of theses controls. If the structure

and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County. If the construction or development is already completed, then the Zoning Administrator may either

(1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or

(2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

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

## **SECTION 300.22 VALIDITY**

### **SUBD 300.22.1 Validity**

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

## **SECTION 300.23 DATE EFFECT**

### **SUBD 300.23.1 Date of Effect**

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

## **SECTION 300.24 CLR – CLOSED LANDFILL RESTRICTED DISTRICT**

### **SUBD. 300.24.1 Purpose**

300.24.1.1 The Closed Landfill Restricted (CLR) District is intended to apply to the former Sibley County landfill which is qualified to be under the Closed Landfill Program of the MN Pollution Control Agency (MPCA). The purpose of the district is to limited uses of land within the closed landfill, both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place and, at the same time, are protective of human health and safety. This

district shall only apply to the closed landfill's Land Management Area, the limits of which are defined by the MPCA. This district shall apply whether the landfill is in public (MPCA, County, City, Township), Indian tribal, or private ownership.

300.24.1.2 For purposes of this ordinance, the Land Management Area for the Sibley County Landfill, a qualified facility under the MPCA's Closed Landfill Program, is described as: SE ¼ of the SW ¼ of Section 34, Township 113, Range 28, (Dryden Township) Sibley County, Minnesota.

300.24.1.3 The following are adopted by reference as a part of the CLR District:

300.24.1.3.1 Landfill Cleanup Agreement between Sibley County and the Commissioner of the Minnesota Pollution Control Agency with effective date of December 1, 1995, and recorded on February 1, 1996, as Document Number 163447.

300.24.1.3.2 Declaration of Restrictions and Covenants dated December 1, 1995, and recorded on January 25, 1996, as Document Number 163216.

300.24.1.3.3 Easement dated December 1, 1995 and recorded on January 26, 1996 as Document Number 163215.

300.24.1.3.4 Closed Landfill Use Plan for Sibley County Landfill developed by MPCA per Minnesota Statute §115B.412, subd. 9 (draft plan dated June 6, 2012).

#### SUBD. 300.24.2 Permitted Uses

300.24.2.1 The following uses are permitted within the CLR District:

##### 300.24.2.1.1 Closed Landfill

300.24.2.1.2 Existing buildings and the corresponding existing footprints for those buildings at the time of enactment of this ordinance.

300.24.2.1.3 Closed landfill management is identified in a Closed Landfill Use Plan (to be developed by MPCA per Minnesota Statute §115B.412, subd. 9).

300.24.2.1.4 Harvesting of haylage, and general farming to maintain the haylands. This use may be located only on the existing haylands. This use is or will be identified in a Closed Landfill Use Plan (to be developed by MPCA per Minnesota Statute §115B.412, subd. 9).

SUBD. 300.24.3 Accessory Uses

300.24.3.1 Accessory uses allowed in this district include outdoor equipment or small buildings used in concert with gas extraction systems, other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates shall apply under these provisions.

SUBD. 300.24.4 Conditional Uses

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

300.24.4.2 The following conditional uses are permitted within the CLR District:

300.24.4.2.1 Solar collection system

300.24.4.2.2 Wind energy conversion system

300.24.4.2.3 Storage facility.

SUBD. 300.24.5 Prohibited Uses and Structures

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

SUBD. 300.24.6 General Regulations

300.24.6.1 Performance standards, (such as height regulations, area regulations, setback regulations, lot width regulations, and other regulations) related to the uses of the property are those specified by the General District Regulations of the A General Agricultural District Section 300.10 and those standards set forth in the General Regulations, Section 300.14.

300.24.6.2 Any additional requirements for ground water management systems,

methane gas management systems, and other such systems required for the protection of public safety, health, and welfare shall be under the management and authority of the appropriate agency of and for the State of Minnesota.

300.24.6.3 No land alterations are permitted without the written consent of the Minnesota Pollution Control Agency.

SUBD. 300.24.7 Any amendment to this ordinance must be approved by the Commissioner of the MPCA and Sibley County.