



Town of May

Washington County, Minnesota

Town of May Municipal Code of 2011

**Based on the Town of May Municipal Code of 2001,
Adopted October 4, 2001 and Effective October 16, 2001,
As Amended by Ordinances Passed and Made Effective Since that Adoption**

**Re-Codified and Adopted August 4, 2011
Effective August 17, 2011**

Published by Order of the Town Board

**TOWN of MAY
WASHINGTON COUNTY, MINNESOTA
RESOLUTION 2011-11**

**A RESOLUTION APPROVING AND ADOPTING THE “TOWN OF MAY
MUNICIPAL CODE OF 2011” AND DIRECTING ITS DISTRIBUTION IN BOTH
PRINTED AND ELECTRONIC FORM**

WHEREAS, in 2001 the May Town Board approved the adoption and naming of the “Town of May Municipal Code of 2001” by Resolution 2001-13, which also authorized the printing of new code books to replace the existing code books; and –

WHEREAS, from 2001 to 2006 the Town passed ordinances, and in 2006 applied those updates to the code master file and to the printed code in the form of page updates issued in 2006, however ordinances passed since the 2006 update process have not been applied to the code master file and have not been issued as page updates to the code; and –

WHEREAS, the Town has since placed the code on its web site, however it is the 2006 version of the code, lacking any ordinance updates since that time; and –

WHEREAS, the Town Board wishes to adopt and publish a current re-codification of the Town Code, with all ordinance updates since 2001 being applied, and to provide new books of the code to current code book holders, and to provide this current re-codified version on the Town’s web site; and –

WHEREAS, consultants to the Town have completed all work needed to update the code master file to make it current, and the code master file is now ready to be used to produce both a current printed version of the code as well as to provide a current version on the Town’s web site; and -

WHEREAS, the May Town Board has reviewed the current updated version of the code, and approves this version for adoption and use.

NOW THEREFORE, BE IT RESOLVED by the May Town Board that said current updated version of the code be adopted as a single, original and comprehensive ordinance known as the “Town of May Municipal Code of 2011,” and –

BE IT FURTHER RESOLVED that the Town Planner is directed to arrange for the printing of sufficient copies thereof, including at least three (3) copies to be held by the Town Clerk and made available for loan or distribution to the public, at a cost established by the Town Board, and that the Town Planner be also directed to update the code on the Town’s web site with the same said version; and –

BE IT FURTHER RESOLVED that, as new ordinances are adopted and become effective, the Town Planner is also directed to keep all versions of the code identical by (a) updating the Town's web site version of the code, (b) updating the Town's master file version of the code, and (c) producing page updates to the printed version of the code, all in a timely manner; and –

BE IT FINALLY RESOLVED that the Town Clerk provide for the publication of this Resolution in the Town's newspaper of record, which will act as official notice of the adoption of this re-codification and its availability to the public, as required by Section 415.021 of the Minnesota Statutes.

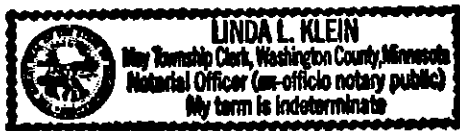
BY ROLL CALL VOTE OF THE MAY TOWN BOARD: ADAMS: YES,
PAZLAR: YES, VOEDISCH: YES, THIS RESOLUTION
IS ADOPTED/NOT ADOPTED THIS 4TH DAY OF AUGUST, 2011



William Voedisch, Board Chair



Attest: Linda Klein, Town Clerk



Officials of the Town of May at the Time of Re-Codification:

**William Voedisch
Board Chair**

**John Adams
Board Supervisor**

**John Pazlar
Board Supervisor**

**Linda L. Klein
Town Clerk**

**Cheryl Bennett
Town Treasurer**

**John Arnason
Planning Commission Chair**

Consultants to the Town of May at the Time of Re-Codification:

**David K. Snyder
Town Attorney
Eckberg, Lammers, Briggs,
Wolff & Vierling**

**Nate Sparks
Town Planner
Northwest Associated
Consultants, Inc.**

**Diane Hankee
Town Engineer
WSB and Associates**

**Pete Kluegel
Building Inspector**

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**TOWN OF MAY MUNICIPAL CODE
AMENDMENT LEDGER
BY DATE OF ENACTMENT**

| Amended Code Section | Code Description | Amending Ordinance | Date Passed | Date Effective |
|--------------------------------------|--|-----------------------|----------------|-------------------|
| 603.09 | Cell Tower Setbacks | 2001-04 | Sep. 6, 2001 | Oct. 10, 2001 |
| 301.01 | Adopt State Building Code | 2002-01 | Mar. 7, 2002 | July 3, 2002 |
| 705.19 | Update Animal Units | 2002-02 | Mar. 7, 2002 | July 3, 2002 |
| 1301.05 | Update Fees & Escrows | 2002-03 | Mar. 7, 2002 | June 12, 2002 |
| 1102.04 | Guslander Bicycle Route | 2002-04 | May 2, 2002 | June 12, 2002 |
| 901.12-902.14 | Gateway Trail Lot Bonus | 2002-05 | Oct. 3, 2002 | Oct. 30, 2002 |
| 1301.05 | Update Fees & Escrows | 2002-06 | Dec. 5, 2002 | Dec. 11, 2002 |
| 901.03 | “Buildable Land” Definition | 2003-06 | June 5, 2003 | June 27, 2003 |
| 506.02 | Nuisance Lighting | 2003-01 | Feb. 6, 2003 | Oct. 8, 2003 |
| 901.04, 901.09 | Access Roads & Driveways | 2003-02 | Feb. 6, 2003 | Oct. 8, 2003 |
| 202.04 | Planning Commission Terms | 2003-03 | Feb. 6, 2003 | Oct. 15, 2003 |
| 810 | Storm Water Management | 2004-02 | Sep. 2, 2004 | Sep. 29, 2004 |
| 705.05C | Detached Two Storied Garages | 2006-01 | Jan. 5, 2006 | Jan. 18, 2006 |
| 705.05E | Small Sheds/Accessory S.F. | 2006-02 | Jan. 5, 2006 | Jan. 18, 2006 |
| 504 | Amend Firearms Provision | 2006-05 | Mar. 2, 2006 | Apr. 12, 2006 |
| 702.01(15) | Deleting Def. 702.01(15) | 2006-06 | Apr. 6, 2006 | June 4, 2006 |
| 705.20.A.2(b) | Setbacks Along County Arterials | 2006-07 | Did Not Pass | N.A. |
| 1301.05 | Update Fees & Escrows | 2006-09 | June 1, 2006 | June 7, 2007 |
| 704.01, 704.04 | Zoning Application Timeline | 2006-08 | July 6, 2006 | Aug. 3, 2006 |
| 705.04 | Limit on Attached Accessory Spaces | 2007-01 | Did Not Pass | N.A. |
| 501.08A | Dogs Running at Large | 2007-03 | Dec. 6, 2007 | June 27, 2009 |
| 705.09.C.2 | Swimming Pool Enclosures | 2007-02 | Feb. 7, 2008 | June 27, 2009 |
| 708.04 | Amend Commercial/Business | 2008-01 | June 5, 2008 | Rescinded |
| 705.05, 603.07, 604.09 | Corner Lot Accessory Structure Setbacks | 2008-02 | Nov. 6, 2008 | Dec. 6, 2008 |
| 604 | WECS Amendment | 2009-01 | May 7, 2009 | Dec. 4, 2009 |
| 310 | Outdoor Wood Boilers (OWB) | 2009-02 | July 2, 2009 | Dec. 4, 2009 |
| 1301.05 | Update Fees & Escrows | 2009-03 | Sep. 6, 2009 | Feb. 5, 2010 |
| 401, 402, 501, 702, 705, 708, 709 | Small Business CUPs to IUPs Other Interim Uses, etc. | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 707.01 | Modify Zoning Map | 2009-06 | Jan. 7, 2010 | Feb. 4, 2010 |
| 708.03C, 702.01 | Conservancy Zone, New Use | 2009-07 | Jan. 7, 2010 | Feb. 4, 2010 |
| 708.04B | Withdraw Ballroom/Agri-Entertainment Use | 2009-08 | Jan. 7, 2010 | Feb. 5, 2010 |
| 708 | Allowing Agri-Entertainment Uses in AG and RR Districts | 2009-09 | Jan. 7, 2010 | Feb. 5, 2010 |
| N.A. | Dissolve May/Hugo Taxing District | 2010-01 | Feb. 4, 2010 | Feb. 5, 2010 |
| 1301.05 | Update Fees & Escrows | 2010-02 | Aug. 5, 2010 | Aug. 28, 2010 |
| N.A. | Errata Ordinance Making Non- Substantive Changes | 2010-03 | Oct. 7, 2010 | Feb. 9, 2011 |
| 705.05B | Method Used to Determine Accessory Bldg. Dimensions | 2010-04 | Oct. 7, 2010 | Feb. 5, 2011 |
| 311 | Certificate of Compliance for Setback Relief | 2010-05 | Jan. 6, 2011 | Feb. 9, 2011 |
| 1301.05 | Update Fees & Escrows | 2011-01 | Jan. 6, 2011 | Feb. 9, 2011 |
| N.A. | Errata Ordinance Making Non- Substantive Changes | 2011-02 | Apr. 7, 2011 | Apr. 27, 2011 |

**TOWN OF MAY MUNICIPAL CODE
AMENDMENT LEDGER
BY DATE OF ENACTMENT**

| Amended Code Section | Code Description | Amending Ordinance | Date Passed | Date Effective |
|--|--|-------------------------------|------------------------|---------------------------|
| 1301.05 | Update Fees & Escrows | 2011-03 | Apr. 7, 2011 | Apr. 27, 2011 |
| 1002, 1003.06, 1004.01, 1301.05 | Sign Definitions, Allowances in Sign Size and Sign Height, Sign Permits | 2012-01 | Feb. 2, 2012 | Feb. 16, 2012 |
| 702.01(3) | Remove Dogs as AG Livestock | 2012-02 | Feb. 2, 2012 | Feb. 16, 2012 |
| 702.01(4a), 708.01 – 708.04, 709.08 | Definition of Agricultural Garden Plots, Adding Agricultural Garden Plots as Interim Uses in All Districts | 2012-03 | Mar. 1, 2012 | Mar. 22, 2012 |
| 702.01(4a), 708.01 – 708.04, 709.08 | Repealing Definition of Agricultural Garden Plots, Repealing Agricultural Garden Plots as Interim Uses in All Districts | 2012-04 | Sep. 6, 2012 | Sep. 15, 2012 |
| N.A. | Cable Franchise Extension | 2013-03 | May 2, 2013 | June 8, 2013 |
| 506.09 | Noise Control | 2013-01 | June 6, 2013 | July 6, 2013 |
| 601 | Cable Communications Franchise | 2013-02 | June 6, 2013 | July 6, 2013 |
| 705.05.C.1 | Accessory Building Height Increase | 2013-04 | Dec. 5, 2013 | Dec. 13, 2013 |
| 702.01 (196), 704.02A.2, 704.03.E, 1004.01.D | Definition of Variance, Variance Review Criteria | 2013-05 | Dec. 5, 2013 | Dec. 13, 2013 |
| 705.05.C.1 | Accessory Building Size Increase | 2014-01 | Sep. 4, 2014 | Sep. 10, 2014 |
| 1104 | Parking Control | 2014-08 | Sep. 4, 2014 | Sep. 10, 2014 |
| 702.01, 708.03 | Definitions Additions/Deletions (62a, 96, 164, 135a) / Conservancy District | 2014-05 | Nov. 6, 2014 | Nov. 22, 2014 |
| 1104 | Parking Control Exhibit | 2014-08A | Nov. 6, 2014 | Nov. 22, 2014 |
| 510 | Wastewater (Sewer) Systems; Operation & Maintenance “201” | 2014-07 | Mar. 5, 2015 | Mar. 20, 2015 |
| 402.02(1), 705.05.B.1 | Small Business Accessory Buildings | 2014-10 | Mar. 5, 2015 | Mar. 20, 2015 |
| 504.03 | Firearms Exceptions | 2014-11 | Mar. 5, 2015 | Mar. 20, 2015 |
| 901.03.02, 901.04.08, 1301.05 | Lot Line Adjustments, Escrow and Fee Schedule | 2014-03 | Nov. 6, 2014 | Apr. 3, 2015 |
| 511 | Codify No Wake Ordinance No. 1203 Originally Adopted April 4, 1996 | 2016-03 | Apr. 7, 2016 | Apr. 21, 2016 |
| 705.21 | Temporary Health Care Dwellings | 2016-04 | Aug. 4, 2016 | Aug. 11, 2016 |
| 705.22 | Solar Energy Systems | 2016-05 | Dec. 1, 2016 | Dec. 18, 2016 |

**TOWN OF MAY MUNICIPAL CODE
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| 202.04 | Planning Commission Terms | 2003-03 | Feb. 6, 2003 | Oct. 15, 2003 |
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| 310 | Outdoor Wood Boilers (OWB) | 2009-02 | July 2, 2009 | Dec. 4, 2009 |
| 311 | Certificate of Compliance for Setback Relief | 2010-05 | Jan. 6, 2011 | Feb. 9, 2011 |
| 401 | Amend Mining Ordinance to include Interim Use Permits | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 401, 402, 501, 702, 705, 708, 709 | Small Business CUPs to IUPs Other Interim Uses, etc. | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 402.02 | Small Business Accessory Building | 2014-10 | Mar. 5, 2015 | Mar. 20, 2015 |
| 501.08A | Dogs Running at Large | 2007-03 | Dec. 6, 2007 | June 27, 2009 |
| 501.14 | Amend Kennel Permits to include Interim Use Permits | 2009.04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 504 | Amend Firearms Provision | 2006-05 | Mar. 2, 2006 | Apr. 12, 2006 |
| 504.03 | Firearms Exceptions | 2014-11 | Mar. 5, 2015 | Mar. 20, 2015 |
| 506.02 | Nuisance Lighting | 2003-01 | Feb. 6, 2003 | Oct. 8, 2003 |
| 506.09 | Noise Control | 2013-01 | June 6, 2013 | July 6, 2013 |
| 510 | Wastewater (Sewer) Systems; Operation & Maintenance "201" | 2014-07 | Mar. 5, 2015 | Mar. 20, 2015 |
| 511 | Codify No Wake Ordinance No. 1203 Originally Adopted April 4, 1996 | 2016-03 | Apr. 7, 2016 | Apr. 21, 2016 |
| 601 | Cable Communications Franchise | 2013-02 | June 6, 2013 | July 6, 2013 |
| 603.09 | Cell Tower Setbacks | 2001-04 | Sep. 6, 2001 | Oct. 10, 2001 |
| 604 | WECS Amendment | 2009-01 | May 7, 2009 | Dec. 4, 2009 |
| 702.01(3) | Definition of Agriculture | 2012-02 | Feb. 2, 2012 | Feb. 16, 2012 |
| 702.01(4a) | Definition of Agricultural Garden Plots | 2012-03 | Mar. 1, 2012 | Mar. 22, 2012 |
| 702.01(4a) | Repealing Definition of AG Garden Plots | 2012-04 | Sep. 6, 2012 | Sep. 15, 2012 |
| 702.01(15) | Deleting Definition 702.01(15) | 2006-06 | Apr. 6, 2006 | June 4, 2006 |
| 702.01(196) | Definition of Variance | 2013-05 | Dec. 5, 2013 | Dec. 13, 2013 |
| 702.01 | Definition Additions/Deletions (62a, 96, 164, 135a) | 2014-05 | Nov. 6, 2014 | Nov. 22, 2014 |
| 704.01, 704.04 | Zoning Application Timeline | 2006-08 | July 6, 2006 | Aug. 3, 2006 |
| 704.02A.2, 704.03.E | Variance Review Criteria | 2013-05 | Dec. 5, 2013 | Dec. 13, 2013 |
| 705 | Small Business CUPs to IUPs Other Interim Uses, etc. | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 705.04 | Limit on Attached Accessory Spaces | 2007-01 | Did Not Pass | N.A. |
| 705.05, 603.07, 604.09 | Corner Lot Accessory Structure Setbacks | 2008-02 | Nov. 6, 2008 | Dec. 6, 2008 |
| 705.05.B | Method Used to Determine Accessory Bldg. Dimensions | 2010-04 | Oct. 7, 2010 | Feb. 5, 2011 |
| 705.05.B | Small Business Accessory Building | 2014-10 | Mar. 5, 2015 | Mar. 20, 2015 |
| 705.05.C | Detached Two Storied Garages | 2006-01 | Jan. 5, 2006 | Jan. 18, 2006 |
| 705.05.C.1 | Accessory Building Height Increase | 2013-04 | Dec. 5, 2013 | Dec. 13, 2013 |
| 705.05.C.1 | Accessory Building Size Increase | 2014-01 | Sep. 4, 2014 | Sep. 10, 2014 |
| 705.05.E | Small Sheds/Accessory S.F. | 2006-02 | Jan. 5, 2006 | Jan. 18, 2006 |
| 705.09.C.2 | Swimming Pool Enclosures | 2007-02 | Feb. 7, 2008 | June 27, 2009 |
| 705.13 | Amend Land Reclamation to include Interim Uses | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 705.19 | Update Animal Units | 2002-02 | Mar. 7, 2002 | July 3, 2002 |

**TOWN OF MAY MUNICIPAL CODE
AMENDMENT LEDGER
BY CITATION**

| Amended Code Section | Code Description | Amending Ordinance | Date Passed | Date Effective |
|-------------------------|---|-----------------------|-----------------------------|--------------------------------|
| 705.20.A.2(b) | Setbacks Along County Arterials | 2006-07 | Did Not Pass | N.A. |
| 705.21 | Temporary Health Care Dwellings | 2016-04 | Aug. 4, 2016 | Aug. 11, 2016 |
| 705.22 | Solar Energy Systems | 2016-05 | Dec. 1, 2016 | Dec. 18, 2016 |
| 707.01 | Modify Zoning Map | 2009-06 | Jan. 7, 2010 | Feb. 4, 2010 |
| 708 | Allowing Agri-Entertainment Uses in AG and RR Districts | 2009-09 | Jan. 7, 2010 | Feb. 5, 2010 |
| 708, 709.08 | Allowing Agricultural Garden Plots in All Districts/Repealing Same | 2012-03 2012-04 | Mar. 1, 2012 Sep.6, 2012 | Mar. 22, 2012 Sep. 15, 2012 |
| 708.03C, 702.01 | Conservancy Zone, New Use | 2009-07 | Jan. 7, 2010 | Feb. 4, 2010 |
| 708.03 | Conservancy District Uses/Lot Area | 2014-05 | Nov. 6, 2014 | Nov. 22, 2014 |
| 708.04 | Amend Commercial/Business | 2008-01 | June 5, 2008 | Rescinded |
| 708.04.B | Withrow Ballroom/Agri-Entertainment Use | 2009-08 | Jan. 7, 2010 | Feb. 5, 2010 |
| 709 | Small Business CUPs to IUPs Other Interim Uses, etc. | 2009-04 | Oct. 1, 2009 | Dec. 4, 2009 |
| 810 | Storm Water Management | 2004-02 | Sep. 2, 2004 | Sep. 29, 2004 |
| 901.03 | “Buildable Land” Definition | 2003-06 | June 5, 2003 | June 27, 2003 |
| 901.03.02 | Lot Line Adjustment Definition | 2014-03 | Nov. 6, 2014 | Apr. 3, 2015 |
| 901.04, 901.09 | Access Roads & Driveways | 2003-02 | Feb. 6, 2003 | Oct. 8, 2003 |
| 901.04.08 | Lot Line Adjustment | 2014-03 | Nov. 6, 2014 | Apr. 3, 2015 |
| 901.12 - 902.14 | Gateway Trail Lot Bonus | 2002-05 | Oct. 3, 2002 | Oct. 30, 2002 |
| 1002 | Sign Definitions | 2012-01 | Feb. 2, 2012 | Feb. 16, 2012 |
| 1003.06 | Allowances in Sign Size and Sign Height | 2012-01 | Feb. 2, 2012 | Feb. 16, 2012 |
| 1004.01 | Sign Permits Required | 2012-01 | Feb. 2, 2012 | Feb. 16, 2012 |
| 1004.01.D | Variance Review Criteria | 2013-05 | Dec. 5, 2013 | Dec. 13, 2013 |
| 1102.04 | Guslander Bicycle Route | 2002-04 | May 2, 2002 | June 12, 2002 |
| 1104 | Parking Control | 2014-08 | Sep. 4, 2014 | Sep. 10, 2014 |
| 1104 | Parking Control Exhibit | 2014-08A | Nov. 6, 2014 | Nov. 22, 2014 |
| 1301.05 | Update Fees & Escrows | 2002-03 | Mar. 7, 2002 | June 12, 2002 |
| 1301.05 | Update Fees & Escrows | 2002-06 | Dec. 5, 2002 | Dec. 11, 2002 |
| 1301.05 | Update Fees & Escrows | 2006-09 | June 1, 2006 | June 7, 2007 |
| 1301.05 | Update Fees & Escrows | 2009-03 | Sep. 6, 2009 | Feb. 5, 2010 |
| 1301.05 | Update Fees & Escrows | 2010-02 | Aug. 5, 2010 | Aug. 28, 2010 |
| 1301.05 | Update Fees & Escrows | 2011-01 | Jan. 6, 2011 | Feb. 9, 2011 |
| 1301.05 | Update Fees & Escrows | 2011-03 | Apr. 7, 2011 | Apr. 27, 2011 |
| 1301.05 | Update Fees & Escrows | 2012-01 | Feb. 2, 2012 | Feb. 16, 2012 |
| 1301.05 | Update Fees & Escrows | 2014-03 | Nov. 6, 2014 | Apr. 3, 2015 |
| N.A. | Dissolve May/Hugo Taxing District | 2010-01 | Feb. 4, 2010 | Feb. 5, 2010 |
| N.A. | Errata Ordinance Making Non- Substantive Changes | 2010-03 | Oct. 7, 2010 | Feb. 9, 2011 |
| N.A. | Errata Ordinance Making Non- Substantive Changes | 2011-02 | Apr. 7, 2011 | Apr. 27, 2011 |
| N.A. | Cable Franchise Extension | 2013-03 | May 2, 2013 | June 8, 2013 |

Chapter 1

GENERAL PROVISIONS

ARTICLE 101: HOW CODE DESIGNATED AND CITED

The ordinances embraced in the following chapters, articles and sections shall constitute and be designated the "Town of May Code" and may be so cited. Codification of the Town of May Ordinances is authorized by Minnesota Statute 415.021 which also provides for publication of notice of availability of said codification.

ARTICLE 102: RULES OF CONSTRUCTION; DEFINITIONS

Section 102.01: Interpretation and Construction

- A. In the construction of this Code and of all ordinances the rules and definitions set out in this Code shall be observed unless such construction would be inconsistent with the manifest intent of the Town Board. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such section or which may be absurd, unreasonable or impossible to execute.
- B. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Board may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- C. No provision of this Code shall be deemed ineffective by failure to use or enforce it.

Section 102.02: Relation to the Town Comprehensive Plan

It is the policy of the Town of May that the enforcement, amendment, and administration of this Code be accomplished incorporating the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the Planning Commission and Town Board. The Town Board recognizes the Comprehensive Plan as the Policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

Section 102.03: Definitions

- (1) Agent. One who acts for or in place of another by authority from him or her, as a substitute, a deputy, appointed by principal with power to do the things which principal may do.
- (2) Animal Control Officer. The person or persons employed by or designated by the Town for the enforcement of this Code as it relates to animals.
- (3) Building Inspector. The word "building inspector" refers to the individual hired by the Town Board to issue, inspect and enforce the State Building Code and applicable provisions of Chapter 3 through the issuance of building permits.

- (4) Clerk. The word "clerk" or "town clerk" refers to the individual who acts as Clerk of the Town Board and has duties as enumerated in Minnesota Statute 367.11.
- (5) Code. The word "Code" means the Town of May Code as herein designated.
- (6) County. The word "County" means Washington County, Minnesota.
- (7) Deputy Constable. The word "deputy constable" refers to an individual employed or appointed by the Town Board to fulfill law enforcement duties, but who is prohibited from carrying a firearm while exercising those duties as enumerated in Minnesota Statute 367.42.
- (8) Distance. All measured distances expressed in feet shall be rounded to the nearest tenth of a foot.
- (9) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (10) Minnesota Rules of Construction. Unless clearly in conflict with the provisions of this Code, or otherwise clearly inapplicable, rules of construction established for the State of Minnesota by statute or case law shall apply in the construction of this Code.
- (11) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; however, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (12) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (13) Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an other, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".
- (14) Officials, employees, boards, commissions, etc. Whenever reference is made to officials, employees, boards, commissions or other agencies of the Town by title only. i.e., "chairman", "town clerk", etc., they shall be deemed to refer to the officials, employees, boards, commissions or other agencies of this Town.
- (15) Ordinance or town ordinance. The unqualified use of the term "ordinance" or "town ordinance" shall be construed to be followed by the phrase "of the Town of May, Washington County, Minnesota" and shall refer also to the Town of May Code.
- (16) Owner. The word "owner" shall, when applied to a building or land, include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

- (17) Person. The word "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.
- (18) Planning Commission. The words "Planning Commission" includes those persons appointed by the Town Board to serve as Planning Commission members.
- (19) Property. The word "property" includes real, personal and mixed property.
- (20) Signature, subscription. A signature or subscription includes a mark when the person cannot write, provided that the person's name is written near such mark and is witnessed by a person who writes his own name as witness.
- (21) Singular or Plural. Unless the context clearly requires otherwise, the use of either singular or plural numbers shall include the other number.
- (22) State. The words "the state" or "this state" mean the State of Minnesota.
- (23) Street. The word "street" means a way, public or private, for the conveyance principally of vehicular traffic, whether designated as a street, avenue, parkway, road, alley, lane, throughway, expressway, highway, road place or however otherwise designated.
- (24) Tenant occupant. The words "tenant" and "occupant", applied to a building or land, mean any person who occupies the whole or a part of such building or land, whether alone or with others.
- (25) Tense. Words used in the past or present tense include the future as well as the past and present.
- (26) Town. The words "town" or "the town" mean the Town of May, Washington County, Minnesota.
- (27) Town Board. The words "Town Board" or "Town Board of Supervisors" mean the Town Board of Supervisors of the Town of May, Washington County, Minnesota.
- (28) Town Fire Warden. The Town Fire Warden shall issue burning permits in conformance with the State of Minnesota Air Pollution Control Rules and conditions imposed by the Town.
- (29) Treasurer. The words "treasurer" or "town treasurer" refer to the individual who acts as Treasurer for the Town and has duties as enumerated in Minnesota Statute 367.16.

- (30) Urban Town. The Town shall have all powers conferred upon it by Minnesota Statute 368.
- (31) Written, in writing. The words "written" or "in writing" include any representative of words, letters or figures, whether by printing or otherwise.
- (32) Year. Unless otherwise designated, the word "year" means a calendar year.

Section 102.04: Computation of Time

- A. Weeks. When the term "successive weeks" is used in any code or ordinance providing for the publishing of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five (5) days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.
- B. Months. When, in any code or ordinance, the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.
- C. Period of Time. Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, the time, except as otherwise provided in subsection A and B of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.
- D. Weekends and Holidays. When an application, payment, return, claim, statement or other document is to be delivered to or filed with a department, agency or instrumentality of this Town on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

Section 102.05: Catchlines of Sections

The catchlines of the sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the titles of such section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Section 102.06: Provisions Considered as Continuation of Existing Ordinances

Some of the provisions appearing in this Code, so far as they are the same as ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Section 102.07: Code Does Not Affect Prior Offenses, Rights, Etc.

- A. Nothing in this Code or the Ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- B. The adoption of this Code shall not be interpreted as authorizing or allowing any use or the continuance of any use of a structure or premises in violation of any ordinance of the Town in effect on the date of adoption of this Code.

Section 102.08: Effect of Repeal of Ordinances

- A. The repeal of an ordinance or any part of the Code shall not revive any ordinances or part of the Code in force before or at the time the ordinance or part of the Code repealed took effect.
- B. The repeal of an ordinance or part of the Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance or part of the Code repealed.

Section 102.09: General Penalty; Continuing Violations

- A. Penalty. Wherever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this Code shall be a misdemeanor offense punishable by a fine not exceeding seven hundred dollars (\$700.00) or imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment in the discretion of the court. Each day any violation of any provision of this Code shall continue, it shall constitute a separate offense.
- B. State Law. Whenever an offense in this Code is substantially similar to an offense in state law, the penalty for such offense shall be as provided for such state offense.
- C. Remedies. The Town may bring an action to restrain, enjoin or abate violations of this Code.

Section 102.10: Severability

It is hereby declared to be the intent of the Town Board that if any section, subsection, sentence, clause, phrase or portion of this Code or any ordinance is held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Code or any ordinance, and it shall be construed to have been the legislative intent to pass this Code or the ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included herein. If this Code or any ordinance or any provision thereof is held inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability hereof to any other person, property or circumstance.

Section 102.11: Separability

Every section, provision or part of this Code or any permit issued pursuant to this Code is declared separable from every other section, provision or part thereto to the extent that if any section, provision or part of this Code or any permit issued pursuant to this Code shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

Section 102.12: Supremacy

- A. More Restrictive Provision to Apply. When any condition imposed by any provision of this Code on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community Code or regulation, the more restrictive conditions shall prevail.
- B. Relationship to Private Agreements. This Code is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this Code are more restrictive than any such easement, restriction or covenant of any private agreement, the provisions of this Code shall prevail.

Section 102.13: Supplementation of Code

Supplements to this Code shall be prepared and printed whenever authorized or directed by the Town Board. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

Section 102.14: Preservation of Existing Rights

The repeal of any ordinance or portion thereof by the adoption of this Code shall not affect or impair any act done or right vested or accrued, or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect, but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally, incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by the adoption of this Code, shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded within all respects as if such prior ordinance or part thereof had not been repealed or altered.

Chapter 2

TOWN ORGANIZATION

ARTICLE 201: TOWN BOARD

Section 201.01: Powers

The Town Board shall have the powers and duties conferred upon it by the laws of Minnesota.

Section 201.02: Composition

The Board of Supervisors of the Town of May is comprised of three board members, elected at large, for three year terms. The terms of office are staggered so that a newly elected board member takes office each year within a three year cycle.

Section 201.03: Vacancies

When a vacancy occurs in a town office, the Town Board shall fill the vacancy by appointment. The person appointed shall hold office until the next annual Town election, when a successor shall be elected to hold office for the unexpired term. A vacancy in the office of supervisor shall be filled by the remaining supervisors and the Town Clerk until the next annual town election, when a successor shall be elected for the expired term.

Section 201.04: Compensation

The Town Board shall set the compensation of supervisors, town assessors, the treasurer, clerk, deputy clerk, if one is employed, the road overseer, and other employees of the Town. All employees of the Town shall be entitled to mileage for the use of their own automobile at a rate to be determined by the Town Board for necessary travel on official Town business. The Town Board may fix the hours of employment for Town employees, and reimburse a Town assessor for expenses.

ARTICLE 202: PLANNING COMMISSION

Section 202.01: Composition

The Planning Commission shall consist of seven (7) members and two (2) alternate members appointed by the Town Board. Any member or alternate member of the Planning Commission may be removed by majority vote of the Town Board. No member or alternate member of the Planning Commission shall be a member of the Town Board. A member of the Town Board shall serve as an ex-officio member of the Planning Commission but shall have no voting power. Regular attendance of all Planning Commission members and alternates shall be required.

Section 202.02: Terms of Members

Appointment to the Planning Commission shall be made at the first regular January meeting of the Town Board, or more often if required. Members shall be appointed for three (3) year terms beginning February 1 and ending January 31 of the third year following. In the event of a vacancy occurring during any term, appointment shall be for the balance of the unexpired term. Alternate members shall be appointed to serve until there is a vacancy on the Commission or until they have served three (3) years. The Town Board shall designate a first alternate who will then become full members in order of the appointment and shall complete the unexpired term of the member they succeed. If the position of any alternate becomes vacant, the vacancy shall be filled in the same manner in which the last regular appointment for that position was made. Members of the Planning Commission shall serve with compensation, and shall hold office until their successors are appointed and qualified. The Chairman of the May Town Board shall appoint the Town Board member who shall serve as the ex-officio member to the Planning Commission at the first meeting following the annual Town meeting. The term of office for the ex-officio Town Board member shall be for one (1) year.

Section 202.03: Organization

The Planning Commission shall appoint a Chairman from among the members of the Planning Commission. The Planning Commission may create and fill such other offices as it may determine.

Section 202.04: Meetings, Reports, etc.

The Planning Commission shall hold at least one (1) regular meeting each month. It shall adopt rules for the transaction of business. It shall keep a public record of all motions, resolutions, transactions, findings, minutes, and reports which shall be promptly reduced to writing, a copy of which shall be forwarded to each member of the Town Board. The Zoning Administrator shall be the official advisor to the Planning Commission. The Attorney shall attend Planning Commission meetings upon request and approval of the Planning

Commission Chair and shall be compensated therefor in the same amount as that received for attending the Town Board meetings.

- A. Voting. Each member attending any meeting shall be entitled to cast a vote. Voting shall be by voice vote. In the event that any member shall have a personal interest of any kind in the matter then before the commission, he or she shall disclose his or her interest and be disqualified from voting upon the matter, and the Secretary shall record in the minutes that no vote was cast by such member. Alternate members shall be entitled to cast a vote in the absence of any member. The second alternate shall be entitled to cast a vote in the absence of any two members.
- B. Removal. Any member or alternate member may be removed by a majority vote of the Town Board, for cause. Cause shall include but not be limited to having more than three (3) absences per year. The Board may consider exceptional circumstances when applying this rule.
- C. Officers. The Chairman and Vice Chairman shall serve two year terms and shall be elected by the Planning Commission by voice vote.

Section 202.05: Expenditures

Expenditures of the Planning Commission shall be within amounts appropriated by the Town Board. The Planning Commission shall submit a complete report of all expenditures to the Town Board on or before November 30th of each year.

Section 202.06: Commissions, Duties and Powers

The Planning Commission shall have the powers and duties given such agency generally by the laws of Minnesota. It shall also exercise the duties conferred on it by the Town Board.

Section 202.07: Zoning Code

No Zoning Ordinance or amendment to this Code shall be adopted by the Town Board until after a public hearing has been held thereon by the Planning Commission upon notice as provided in the Zoning Code.

Section 202.08: Planning, Zoning and Variances

Any planning, zoning or variance request submitted to the Town Board for approval shall, prior to final approval, be referred to the Planning Commission for review and recommendation. The Planning Commission shall hold all hearings that may be required according to the provisions of the Zoning Code. Within forty-five (45) days after receipt of the request for a special use permit or variance by the Planning Commission, the Planning Commission shall report to the Town Board its recommendations concerning the request.

Section 202.09: Plats

Any plat of land submitted to the Town Board for approval shall, prior to final approval, be referred to the Planning Commission for review and recommendations. The Planning Commission shall hold a public hearing on said plat upon notice as provided in the Subdivision Ordinance. Within forty-five (45) days after receipt of the plat by the Planning Commission, the Planning Commission shall report to the Town Board its recommendations concerning the plat.

Chapter 3

BUILDING AND BUILDING REGULATIONS

ARTICLE 301: ADOPTION OF STATE BUILDING CODE

Section 301.01: Adoption of State Building Code

The Town of May hereby adopts the Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75, is hereby adopted as the building code for this jurisdiction. The code is hereby incorporated in this ordinance as if fully set out herein.

The Minnesota State Building Code includes the following Chapters of Minnesota Rules:

- A. 1300 Minnesota Building Code
- B. 1305 Adoption of the *1997 Uniform Building Code* including Appendix Chapters:
 - 1. 3 Division I, Detention and Correctional Facilities
 - 2. 12 Division II, Sound Transmission Control
 - 3. 15 Reroofing
 - 4. 29 Minimum Plumbing Fixtures
 - 5. 31 Division II, Membrane Structures
- C. 1315 Adoption of the *1996 National Electrical Code*
- D. 1307 Elevators and Related Devices
- E. 1325 Solar Energy Systems
- F. 1330 Fallout Shelters
- G. 1335 Floodproofing Regulations parts 1335.0600 to 1335.1200
- H. 1340 Facilities for the Handicapped
- I. 1346 Adoption of the *1991 Uniform Mechanical Code*
- J. 1350 Manufactured Homes
- K. 4715 Minnesota Plumbing Code
- L. 1360 Prefabricated Buildings

- M. 16 Division I, Snowload Design
- N. 7670 Minnesota Energy Code
- O. 1301 Building Official Certification
- P. 1306 Special Fire Protection Systems with Group M, S, or F Occupancies with 5,000 or more gross square feet
- Q. 1302 State Building Construction Approvals
- R. 1361 Industrialized/Modular Buildings
- S. 1370 Storm Shelters (Manufactured Home Parks)

Section 301.02: Organization and Enforcement

The organization of the Building Department and enforcement of the Code shall be as established by Chapter 2 of the Uniform Building Code 1985 Edition. The Code shall be enforced within the incorporated limits of the Town.

Section 301.03: Permits, Inspections and Fees

- A. Permits, Inspections and Fees. The issuance of permits, inspections and the collection of fees shall be as authorized in Minnesota Statutes 16B.59 to 16B.75, Subd. 1 and as provided for in Chapter 1 of the 1997 Uniform Building Code and Minnesota Rules 1305.0106 and 1305.0107. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statute 16B.70.
- B. Surcharge. In addition to the permit fee required by item A above, the applicant shall pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by Minnesota Statutes 1984, 1613.70.

Section 301.04: Violations and Penalties

The penalty described in the Uniform Building Code, 1985 Edition, Section 205, as amended, shall be in keeping with Minnesota Statute 609.033 - 609.034 which provides a maximum fine of \$700.00.

ARTICLE 302: LOCAL BUILDING PERMITS

Section 302.01: Local Building Permit Required

- A. Permit Required. No structure shall be erected or structurally altered until a building permit has been issued, indicating that the existing or proposed structure and the use of the land comply with this chapter and all Building Codes. Building permits shall not be issued unless the proposed improvement meets all the requirements of the Building Code.
- B. No Site Preparation. No site preparation work, including rough grading, driveway construction, footing excavation or other physical changes to the site shall occur prior to the issuance of building permit and other zoning use permits.
- C. Application Form. Applications for permits as required in the Article shall be made to the Building Inspector on forms furnished by the Town. Proof of ownership of the land on which the existing or proposed structure is to be built is required from the applicant in the form of a copy of the deed of ownership or contract for deed. The Building Inspector shall maintain a record of all applications for and all permits issued under this Article.
- D. Site Plan. Application for a building permit shall be accompanied by a site plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building, utilities (including on-site septic systems), accessory buildings to be erected, location of driveway and culvert size, vegetation, and major topographic changes including site grading and an erosion control plan. Drawings of the improvement should be of sufficient detail to permit checking against the Building Code and such other information as the Building Inspector may reasonably require to determine compliance with this Article, Code and Building Code. The Building Inspector may require a Certificate of Survey before a building permit will be issued, when uncertainty exists regarding boundaries and set-backs.
- E. Town Road Frontage. Application for a building permit on a lot fronting on a town road or what will eventually become a town road shall be accompanied by a cash escrow, in an amount to be determined by the Town Board and is set forth in Chapter 13 of this Code, for the purpose of repair and restoration for any damage or clean-up necessary to the town road and right-of-way, including ditches, caused during the construction. The Building Inspector shall photograph the adjacent town road and right-of-way prior to issuance of the building permit.
- F. Release. The security deposit shall be released not later than sixty (60) days after a Certificate of Occupancy has been issued or one year after issuance of the building permit, whichever is later, except to the extent necessary to make repairs or clean up the township streets or easements from damage or erosion caused by the construction project. If no Certificate of Occupancy is required, the security shall be released

within sixty (60) days after the Building Inspector determines that the construction is substantially complete except to the extent necessary to make repairs or clean up the township streets, or easements from damage or erosion caused by the construction project. If the applicant fails to make repairs or clean up eroded materials after receiving notice to do so from the Town, the Town shall make the necessary repairs or clean up the eroded materials and the cost shall be reimbursed to the Town from the security deposit.

G. Height.

1. No structure shall exceed thirty-five (35) feet in height, including church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flag poles, public facilities, transmission towers of private radio broadcasting stations, television antennae, except barns, silos and other farm structures, utility transmission services and transmission towers of commercial broadcasting stations. (See Article 603, Wireless Communication Antennas and Cell Towers and Article 604, Wind Energy Conservation Systems (WECS)).
2. Parapet walls shall not extend more than four (4) feet above the height permitted for the building.

H. No Illegal Use. No building permit shall be issued for any improvement which would result in a use, building or structure in violation of this Article or the Subdivision Development Regulations, Shoreland Management, Floodplain, Sanitary Sewer Disposal, Mining, Sand and Gravel Excavation, or other Article contained herein or any applicable County, State or Federal law.

I. Commencement of Construction. The work for which a building permit is issued shall commence within sixty (60) days after the date of issuance unless an application for an extension to ninety (90) days has been submitted to and approved by the Building Inspector and approved by him. The work shall be completed within one (1) year of the date of issuance.

Section 302.02: Expiration, Suspension or Revocation of Building Permit

- A. Expiration. Permits issued by the Building Inspector under the provisions of this Article and the Building Code shall expire and be null and void if the work authorized by a permit is abandoned or suspended for a period of one hundred twenty (120) days or in the event that work is not commenced or completed within the time limitations of Section 302.01.I. of this Article.
- B. Revocation. The Building Inspector may, in writing, suspend or revoke a building permit issued under the provisions of this Article and the Building Code whenever such building permit is issued in error or on the basis of incorrect information supplied, or in violation of any Town, County, State or Federal ordinance or law.

Section 302.03: Violations and Penalties

- A. Violations. Any firm, person or corporation who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.

- B. Penalties. In the event of a violation or threatened violation of any of the terms of this Article, the Town may take appropriate action to enforce the Article, including application for injunctive relief, action to compel performance, or other appropriate action to court, if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.

- C. Enforcement. Whenever necessary to enforce any of the provisions of this Article or whenever there is reasonable cause to believe that a violation of this Article has occurred or is about to occur, an authorized agent of the Town may enter any building or upon any premises at all reasonable times to inspect the same or to perform any duties imposed by this Article, provided that if such building or premises is occupied, the authorized agent shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Town shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

ARTICLE 303: DRIVEWAY PERMITS

Section 303.01: Purpose

The purpose of this Article is to control the location of driveways and curb cuts in order that traffic hazards be reduced, adequate street drainage be maintained, and that ingress and egress from properties not constitute a hazard or impair the health, safety, or general welfare of residents of the Town of May.

Section 303.02: Permit Required

No driveway shall be constructed in any location where motor vehicles will be provided with access to any public right-of-way without first obtaining a permit for said construction from the Building Inspector, who shall require a grade to establish the driveway. Prior to the issuance of the permit, the provisions of this Article shall be complied with.

Section 303.03: Application

Any person desiring said permit shall present a written application to the Town describing the improvements to be made with plans which indicate that the requirements of this Article will be met.

Section 303.04: Permit Fees

The permit fee shall be set by the Town and is set forth in Chapter 13 of this Code.

Section 303.05: Permit Revocation

The permit issued may be revoked by the Town at any time after its issuance for failure to comply with the conditions of the permit or the directions of the Town relative to the work covered by the permit.

Section 303.06: General Requirements

- A. Scope. The requirements of this Article apply to all new construction and to modifications to existing driveways which do not conform to the present requirements.
- B. Notification of Construction. The Town is to be notified at least twenty-four (24) hours in advance of the date the construction will start.
- C. Plan. Prior to the construction of a driveway, a plan must be submitted which shall indicate the location and specifications for driveways and curb cuts in accordance with this Article. The plan submitted shall be approved prior to the issuance of a permit for a driveway.

Section 303.07: Standards

The following regulations shall apply to all driveways, curb cuts and aisles:

- A. Access Drives. Access drives shall be constructed and maintained to a width and base material sufficient to support access by emergency vehicles.
- B. Distance between Driveways. The minimum distance between curbs of driveways at right-of-way line shall be ten (10) feet in any residential district. In all other districts, the minimum distance shall be twenty (20) feet.
- C. Distance from the Intersection. No driveway or curb cut shall be less than twenty (20) feet from the right-of-way line of any street intersection.
- D. Access to Thoroughfares. On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road wherever feasible in order to reduce the number of curb cuts on thoroughfares.
- E. State and County Highway Requirements. The proposed driveway is to be constructed so that if it opens onto any street designated as a state or county highway, all additional specifications of the appropriate highway departments will apply.
- F. Driveway Distance from Lot Line. A driveway must be at least five (5) feet from any lot line, except the lot line it crosses for ingress and egress.
- G. Gravel Surface. Driveways should be constructed with a minimum four (4) inches thickness gravel surface.
- H. Grade of Driveway. Driveways with six percent (6%) or steeper grade shall be blacktopped (minimum 1 1/2" thickness) as far as necessary to prevent washing of the gravel surface onto the Town road or into ditches.
- I. Driveway Culverts. Driveway culverts shall be a minimum fifteen (15) inches diameter, twenty-four (24) feet in length with aprons. Larger diameter culverts will be required to carry the ditch flow at the lower ends of drainage areas. Without adequate culvert capacity, restrictions will be created at driveway entrances which could cause washouts of the driveway and/or Town road.
- J. Minimum Driveway Width. A minimum driveway width of twenty (20) feet and turn radii should be established to the right-of-way line. Widths of the driveway on private property shall be of adequate width to provide ready access for emergency equipment.
- K. Trees or Brush Maintained. Trees or brush shall be cleared and maintained along driveways on private property to allow the passage of emergency equipment.

- L. Township as Permitting Authority. That all driveways be permitted through the Township on all Township roads.

- M. Joint Driveways. A maximum of two homes are allowed on one common driveway provided each parcel has frontage and access on a public road. (See Chapter 7, Zoning Regulations, and Chapter 9, Subdivision Development Regulations.)

ARTICLE 304: MOVING PERMITS

Section 304.01: Permit Required

No building or structure which has been wholly or partially erected shall be moved to any other location within the Town or outside of the Town unless a moving permit to move the building or structure has been obtained. Any building or structure proposed to be moved shall meet all requirements contained in the Building Code applicable to a new building or structure.

Section 304.01: Application; Cash Escrow

Application for a moving permit which will traverse a Town road or over what will eventually become a Town road shall be accompanied by a cash escrow, in an amount to be determined by the Town Board and as set forth in Chapter 13 of this Code, for the purpose of repair and restoration for any damage or clean-up necessary to the Town road and right-of-way, including ditches, caused during the moving. The Building Inspector and representative of the Town Board or staff and applicant for the moving permit shall visually inspect the Town road or roads to be used prior to issuance of the moving permit.

ARTICLE 305: SEPTIC PERMITS

Section 305.01: Permit Required

No building permits for any use requiring on-site sewage treatment and disposal shall be issued until a septic permit has first been issued.

Section 305.02: Conformance to Ordinance

A septic permit shall be issued only after proof by the applicant that a suitable on-site sewage treatment and disposal system can be installed on the site. Such system shall conform to all the requirements of the Washington County On-Site Sewage Treatment and Disposal Ordinance, including any amendments thereto, and shall include percolation tests and borings.

Section 305.03: Private Sanitary Sewers

In areas without public sanitary sewer, where public sanitary sewer is not proposed in the Town's Capital Improvement Program or Comprehensive Plan, single family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of .95 acres per dwelling unit. A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least two (2) complete septic/drainfield treatment systems.

ARTICLE 306: GRADING PERMITS

Section 306.01: Permit Required; Exceptions

- A. No grading shall be permitted without first obtaining a grading permit from the Building Inspector except for the following:
1. Grading in an isolated, self-contained area if there is no danger apparent to private or public property.
 2. An excavation below finished grade for basements and footing of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five (5) feet after the completion of such structure.
 3. Cemetery graves.
 4. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
 5. Exploratory excavations under the direction of soil engineers or engineering geologists.
 6. An excavation which meets the following criteria:
 - (a) Is less than two (2) feet in depth or
 - (b) Which does not create a cut slope greater than one (1) foot in height and steeper than five (5) horizontal to one (1) vertical.
 7. A fill which meets the following criteria:
 - (a) Less than one (1) foot in depth and placed on natural terrain with a slope flatter than five (5) horizontal to one (1) vertical or
 - (b) Less than three (3) feet in depth, not intended to support structures, which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.

ARTICLE 307: CERTIFICATE OF OCCUPANCY

Section 307.01: Permit Required

No person may change the use of any land (except for agricultural purposes or for construction of essential services and transmission lines) or occupy a new or structurally altered building used for non-agricultural use after the effective date of this Code, unless they have first obtained a Certificate of Occupancy.

Section 307.02: Application for a New or Existing Building

Application for a Certificate of Occupancy for new buildings or for an existing building which has been altered may be filed with the Building Inspector any time after the application for a building permit for such building. The Certificate of Occupancy shall be issued with ten (10) days after the construction or alteration of such building or part thereof has been completed in conformity with the provisions of this Article, Code and the Building Code. Pending the issuance of said certificate, a Temporary Certificate of Occupancy may be issued, subject to the provisions of the Building Code, for a period not to exceed twelve (12) months during the completion of the erection or alteration of such a building. The Temporary Certificate of Occupancy shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the community relating to the use or occupancy of the premises or any other matter, except under such restrictions and provisions as will adequately insure the safety of the occupants. The use of any structure for which a building permit is required shall be considered a violation of this Article unless a Certificate of Occupancy has been issued.

Section 307.03: Application for a New Use of Land

Application for a Certificate of Occupancy for a new use of land shall be made to the Building Inspector before any such land shall be so used. Such Certificate of Occupancy shall be issued within ten (10) days after this application if the use is in conformity with the provisions of this Article. The use of any structure for which a building permit is required shall be considered a violation of this Article unless a Certificate of Occupancy has been issued.

Section 307.04: Record

A record of all applications for and Certificates of Occupancy shall be kept on file in the office of the Town.

ARTICLE 308: VIOLATIONS AND PENALTIES

Section 308.01 Violations and Penalties

- A. Violations. Any firm, person or corporation who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. Penalties. In the event of a violation or threatened violation of any of the terms of this Chapter, the Town may take appropriate action to enforce this Chapter, including application for injunctive relief, action to compel performance, or other appropriate action to court, if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.
- C. Enforcement. Whenever necessary to enforce any of the provisions of this Chapter or whenever there is reasonable cause to believe that a violation of this Chapter has occurred or is about to occur, an authorized agent of the Town may enter any building or upon any premises at all reasonable times to inspect the same or to perform any duties imposed by this Chapter, provided that if such buildings or premises is occupied, the authorization shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Town shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

ARTICLE 309: APPLICATION FEES

Section 309:01: Application Fees Required

There shall be an application fee for all applications in this Chapter. Application fees are found in Chapter 13 and are set from time to time by Resolution of the Town Board.

ARTICLE 310: OUTDOOR WOOD or WOOD-FIRED BOILERS (OWBs)

Section 310.01: Purpose

The purpose of this ordinance is to ensure that outdoor wood boilers are installed and operated in a manner that limits particulate matter emissions, and in a manner that avoids or limits the creation of nuisance conditions.

Section 310.02: Definitions

For the purposes of this ordinance the following words and phrases shall have the meaning given herein:

- (1) Clean wood means wood that has no paint, stains, or other types of coatings, and wood that has not been treated with, including but not limited to copper chromium arsenate, creosote, or pentachlorophenol.
- (2) Heater efficiency means the ratio of the delivered useful heat output to the calculated heat input of the heater.
- (3) Installed or existing units means any unit acquired, installed or operational at the intended location of use, prior to the effective date of this ordinance.
- (4) Nuisance means a public nuisance as defined in Article 506 of the May Town Code.
- (5) Opacity means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.
- (6) Outdoor Wood Boiler or Outdoor Hydronic Boiler means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans; and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
- (7) Particulate matter or PM means total particulate matter.
- (8) Property Line means a line bounding a lot, which divides one lot from another or from a street or any other public or private space.
- (9) Residential-size heater means a heater with a rated thermal output of 350,000 Btu/hr or less.

Section 310.03: Permit Required

No person shall install, use, operate or maintain an Outdoor Wood Boiler without first having obtained an “OWB Permit” from the Town of May.

Section 310.04: Permit Application

- A. Every person required to obtain a permit to install, use, operate, or maintain an Outdoor Wood Boiler under the provisions of this ordinance shall submit an OWB Permit application to the Town’s Building Official that identifies the property on which they reside and on which the OWB will be installed, with a the name, address and telephone number of the applicant and any co-applicants, as well as agents for the same. In cases where the resident is not the owner of the property, the owner must be a co-applicant.
- B. Every applicant shall submit a scaled drawing of the property, identifying the property boundaries, depicting and labeling any structures on the property, and depicting the proposed location of the Outdoor Wood Boiler on the lot and its distance from property lines.
- C. All applications shall be signed by the owner or owners of the property, and in cases where the resident and operator of the unit is not the owner, then also by the renter or other person having legal control of the property. A signing applicant is certifying that the information in the application is complete and correct.
- D. The application shall be accompanied by a copy of the EPA Phase 2 “White Tag” for the unit to be installed, demonstrating compliance with the particulate matter limits set forth in the Emission Standards section of this document, or be able to demonstrate compliance with EPA Phase 2 “White Tag” standards. See Exhibit A for a description of the EPA Phase 2 “White Tag” standard.

Existing units as defined herein are exempt from the EPA Phase 2 “White Tag” requirement except where specifically stated elsewhere in this ordinance.

- E. The application shall be accompanied by an application fee as established by the Township.

Section 310.05: Existing Outdoor Wood Boilers

- A. Within sixty (60) days of the effective date of this ordinance, any person operating or maintaining an outdoor wood boiler shall apply for an OWB Permit from the Town of May.
- B. Existing units as defined herein that do not meet EPA Phase 2 “White Tag” standards as defined in Exhibit A shall be upgraded to those standards or removed, upon transfer of property ownership. Previously existing units that have had complaints and

do not meet permit standard C. “Stack Height Requirements,” may be directed by the Town to be made compliant with standard C.

- C. Previously existing wood boilers must meet “Permit Standards” A, E, F, G, and H defined below.

Section 310.06: Permit Standards

An outdoor wood boiler shall comply with the following requirements:

- A. Permitted Fuel. Only clean wood, properly seasoned (dried) or wood pellets made from clean wood, or other fuels as approved by the Township are permitted to be burned in an outdoor wood boiler. Burning any other material in an outdoor wood boiler is expressly prohibited and is a violation of this ordinance.

Prohibited Fuels. No person shall burn any of the following items in an outdoor wood boiler:

1. Any wood that does not meet the definition of clean wood, or clean wood that is not properly seasoned (dried);
 2. garbage;
 3. tires;
 4. lawn clippings or yard waste;
 5. materials containing plastic;
 6. materials containing rubber;
 7. waste petroleum products;
 8. paints and paint thinners;
 9. chemicals;
 10. coal;
 11. glossy or colored papers;
 12. construction and demolition debris;
 13. plywood;
 14. particleboard;
 15. asphalt products;
 16. manure;
 17. animal carcasses.
- B. Emissions Standard. No person shall own, operate or maintain an outdoor wood boiler unless it meets a particulate matter emission limit of 0.32 pounds per million British Thermal Units (“lbs/MMBtu”) heat input, following the EPA Phase 2 “White Tag” (see Exhibit A) emission limits.
 - C. Stack Height Requirements. No person shall install, own, operate or maintain an outdoor wood boiler unless the outdoor wood boiler has a permanent stack height extending 2 feet higher than the peak of the nearest residential roof on a property

other than the property being served by the outdoor wood boiler, or a stack height at least 16 feet above ground level, whichever is greater.

However, in no case will the owner/operator be made to raise the stack to a height where the unit will no longer reasonably function.

- D. Certification. No person shall purchase or install an outdoor wood boiler after the effective date of this ordinance, unless the outdoor wood boiler has received EPA Phase 2 “White Tag” certification (see Exhibit A) pursuant to the United States Environmental Protection Agency Outdoor Wood-Fired Hydronic Heater Program or an alternative certification program approved by the Town of May. The certification shall demonstrate that the outdoor wood boiler meets or exceeds the applicable emission standard of this ordinance.

Refer to Exhibit A for a description of the EPA phase 2 “White Tag,” and Exhibit B for a listing of manufacturers who supply compliant OWB’s.

- E. Months of Operation. Outdoor wood boilers may be operated only between October 1 and March 31.
- F. Nuisance. No person shall operate an outdoor wood boiler in such a manner as to create a public nuisance as defined in Article 506 of the May Town Code.
- G. Replacements. If an outdoor wood boiler is replaced or upgraded, a permit shall be required for said upgrade or replacement equipment, and such equipment shall comply with sections B and D of this ordinance.
- H. Visible Emissions. No person shall cause or allow the emission of a visible smoke plume to such a degree that it creates a public nuisance as defined in Article 506 of the May Town Code.

For units purchased or installed after the effective date of this ordinance, or replacement OWB’s, a 20% opacity limit shall be maintained at all times except during the first 10 minutes of boiler start-up, during which time a higher level of emissions is expected and acceptable. “Opacity” means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

- I. Labeling Requirements. OWB’s shall meet the following label requirements:
1. Have a permanent label that shall:
 - a. Be permanently affixed in a readily visible or accessible location;
 - b. Be at least 3½ inches long by 3 inches wide;
 - c. Be made of a material expected to last the lifetime of the unit;

- d. Present required information in a manner so that it is likely to remain legible for the lifetime of the unit;
 - e. Be affixed in such a manner that it cannot be removed from the appliance without damage to the label;
 - f. The permanent label may be combined with any other label, as long as the required information is displayed, and the integrity of the permanent label is not compromised.
2. The permanent label shall display the following information:
- a. Month and year of manufacture;
 - b. Manufacturer's name, model number or product name;
 - c. Serial number;
 - d. Particulate matter emissions in pounds per million British Thermal Units ("lbs/MMBtu");
 - e. Date of certification.
3. The Township OWB Label: Each unit shall prominently display the following language on the outdoor hydronic heater:

"By Order of the Town of May:

It is unlawful to burn garbage, treated or painted wood, coal, tires, plastic and plastic products, rubber products, yard waste, lawn clippings, glossy or colored papers, construction and demolition debris, plywood, particleboard, manure, animal carcasses, asphalt products, waste petroleum products, paints, chemicals or any substance that normally emits dense smoke or obnoxious odors, or any other substance otherwise prohibited by the Town of May."

The Town shall supply this Township OWB Label to each OWB operator.

- J. Setback and distance from other homes. All OWB's will be installed in accordance with standard Township setbacks for structures. In addition, no OWB will be installed closer than 500 feet from any home not on the property being served by the OWB, and no closer than 500 feet from the proposed building pad of any neighboring platted but undeveloped lot.
- K. In considering issuance of any permit, in addition to the other requirements and standards of this ordinance, the Town will review the proposed placement of the Outdoor Wood Boiler to determine that the applicant has demonstrated that it is sited so as to minimize impacts on existing or future neighboring homes.

Section 310.07: Administration

- A. Creation of the Township OWB Application and Permit, and Township OWB Label. After passage of this ordinance, the Town Board will work with its Building Official to design, or direct the design, of the Town of May OWB Application and Permit, and

Township OWB Label. Once such Application, Permit and Label are available, they shall be used by the Town's Building Official as directed herein.

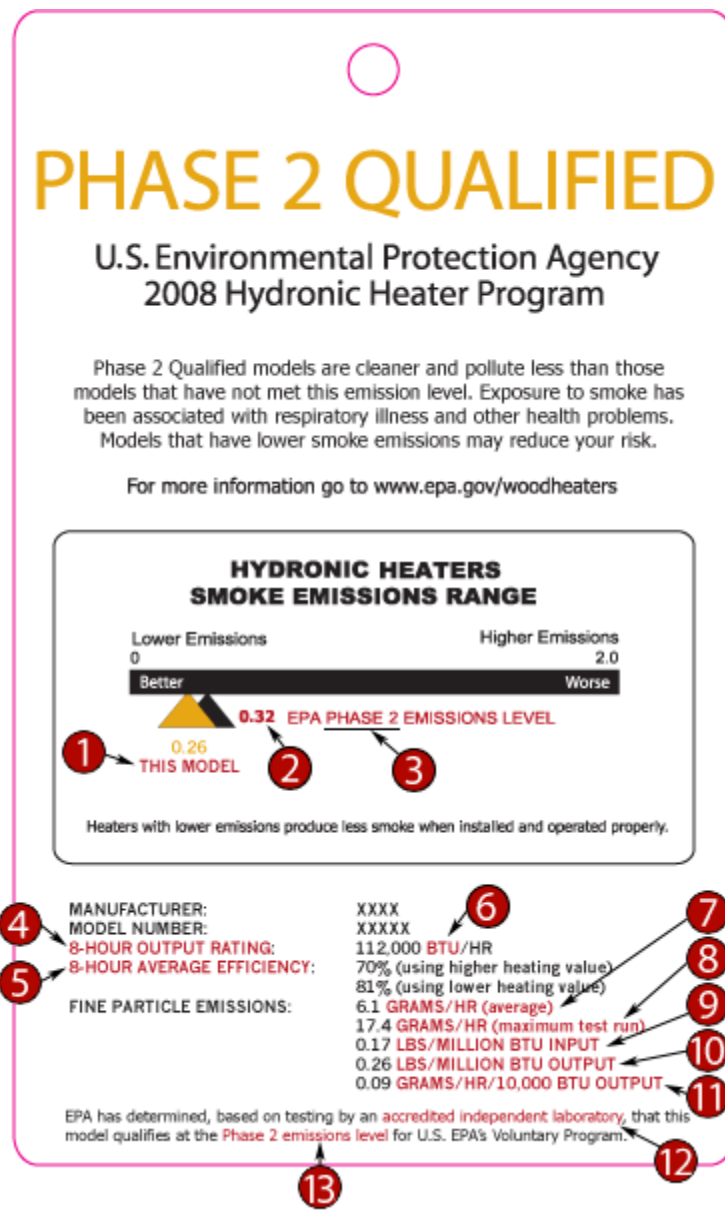
- B. Permit Suspension. The Township may immediately suspend any permit issued if it is determined that an outdoor wood boiler is operated in violation of this ordinance and such operations constitutes a public nuisance as defined in Article 506 of the May Town Code. An outdoor wood boiler shall not be operated during the period in which the permit is suspended. A suspended permit shall be reinstated once the condition that gave rise to the suspension is remedied.
- C. Fees. Before implementation of this ordinance the Town Board shall establish the OWB Permit Application fee, and annual renewal fee, if any.
- D. Inspection. All OWB's will be subject to inspection upon installation but prior to being put into use, and an annual in-season inspection is to be performed by the Building Official or other designated Township official.

Exhibit A

Understanding the White Tag

This white tag identifies hydronic heaters that meet EPA's Phase 2 emissions levels for the voluntary program. Models that carry this tag have been tested by an EPA-accredited laboratory and are cleaner than other models.

The following are definitions for specific parts of the hang tag to help you as the consumer, better understand how your model was rated. To view the definitions, click on or place your mouse on the red number directly on the hang tag graphic.



1 "This Model" Designation - shows the pollution emission level (measured in lbs/million BTU heat output) for this particular model. This number resulted from the emissions test used to compare the heater with the EPA qualifying emissions level.

0.32 EPA Phase 2 Emissions Level - the heater must meet this level to qualify for the EPA Phase 2 voluntary program. This level is calculated in lbs/million BTU output (i.e., useful heat).

Phase 2 - is the second step of EPA's phased program to provide better choices to consumers of models that are cleaner and more efficient than unqualified models.

4 8-Hour Heat Output Rating - describes how much heat this model can provide in eight hours (measured in BTU/hour).

5 8-Hour Average Efficiency - is the useful heat output expressed as a percent of heat input (i.e., fuel burned). This value is shown for higher heating value (which includes the heat content of the moisture in the fuel) and for lower heating value (which does not include the heat content of the moisture in the fuel).

6 BTU - is short for British Thermal Unit. A BTU is a measure of an amount of heat. Specifically, a BTU is the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

7 Grams/hour (average) - shows the amount of pollution (measured in grams) per unit of time (measured in hours). This number is essential for estimating air quality and health impacts. For comparison, most unqualified hydronic heaters emit 100-300 grams/hour whereas most current EPA-certified woodstoves emit less than 4 grams/hour and some emit less than 2 grams/hour.

8 Grams/hour (maximum test run) - shows the amount of pollution per time for the qualifying test run that had the highest value. For comparison, most unqualified hydronic heaters emit 100-300 grams/hour whereas all large EPA-certified woodstoves are required to emit less than 18 grams/hour and smaller woodstoves are required to emit less than 15 grams/hour.

9 XX lbs/ Million BTU Heat Input - shows the amount of particle pollution per amount of fuel burned. For comparison, most unqualified hydronic heaters are estimated to emit 1.5-5.0 lbs/million BTU heat input whereas most current EPA-certified woodstoves emit 0.8-1.5 lbs/million BTU heat input.

10 XX lbs/ Million BTU Heat Output - **shows the amount of particle pollution per amount of heat produced.**

11 Grams/Hour/10,000 BTU Heat Output - **shows the particle pollution per hour per every 10,000 BTU of heat output. This calculation takes into consideration varying sizes of hydronic heater units. In general, larger models typically emit more pollution but they also provide more heat output if the efficiency is the same. Although EPA's primary interest is reducing emissions to protect public health, EPA is also encouraging manufacturers to increase the efficiency of their hydronic heaters which typically reduce emissions for a given heat output. For comparison, many unqualified hydronic heaters are estimated to have combustion efficiencies of only 30-40 percent whereas most current EPA-certified woodstoves and wood pellet stoves have efficiencies of 67-80 percent.**

12 Accredited Independent Laboratory - **EPA has provided official authorization for certain hydronic heater testing labs in the United States. An important criterion is that these labs are independent of the manufacturers. Also, this accreditation is determined by reviewing a lab's performance, their capabilities for completing specific types of testing, and accurately and fully compiling results data.**

13 Emissions Level - **designated by EPA as a maximum of 0.32 lbs of particle pollution per million BTU heat output. EPA established this number with input from various stakeholder groups such as industry manufacturers, EPA-accredited woodstove testing laboratories, state air quality agencies, and the Northeast States for Coordinated Air Use Management (NESCAUM).**

Exhibit B

List of Cleaner Hydronic Heaters

Below are lists of cleaner burning hydronic heaters that qualify for the EPA voluntary program. The table is for models that qualify for the Phase 2 white tag (about 90 percent cleaner than unqualified models). These emissions are calculated as if the model is only used during the heating season.

Phase 2 White Tag Models

| Manufacturer | Model Name & Number | Heat Output Rating ⁽¹⁾ | Efficiency ⁽¹⁾ | Annual Average Emission Rate | Heat Input ⁽²⁾ Annual Average Emission Level | Heat Output Annual Average Emission Level | Highest Individual Test Run |
|------------------------------------|---------------------|-----------------------------------|---|--|---|---|-----------------------------|
| <u>Central Boiler</u> | Maxim M250 | 212,453 BTU/hr | 87.8 % high heating value 95.54 % low heating value | 1.6 grams/hr 0.07 grams/hr/10,000 BTU output | 0.05 lbs/million BTU input | 0.06 lbs/million BTU output | 4.9 grams/hr |
| <u>Central Boiler</u> | E - Classic 2300 | 160,001 BTU/hr | 74.94 % high heating value 85.74 % low heating value | 6.4 grams/hr 0.06 grams/hr/10,000 BTU heat output | 0.20 lbs/million BTU input | 0.31 lbs/million BTU output | 17.6 grams/hr |
| <u>Greenwood Technologies, LLC</u> | Aspen 175 | 66,290 BTU/hr | 67.5% high heating value 77. 2% low heating value | 8.4 grams/hr 0.18 grams/hr/10,000 BTU heat output | 0.18 lbs/million BTU input | 0.27 lbs/million BTU output | 18.0 grams/hr |

| | | | | | | | |
|--|------------------|-----------------------|---|--|-----------------------------------|------------------------------------|----------------------|
| <u>Hardy Manufacturing Co., Inc.</u> | KBP 270 | 120,000 BTU/hr | 72.3% high heating value 77.9% low heating value | 2.96 grams/hr 0.23 grams/hr/10,000 BTU output | 0.10 lbs/million BTU input | 0.20 lbs/million BTU output | 6.03 grams/hr |
| <u>Northwest Manufacturing, Inc. (Woodmaster)</u> | AFS 900 | 107,069 BTU/hr | | 2.49 grams/hr 0.27 grams/hr/10,000 BTU output | 0.11 lbs/million BTU input | 0.20 lbs/million BTU output | 7.38 grams/hr |
| <u>Silverwinds Metals (Wood Doctor)</u> | WD-HE8000 | 112,655 BTU/hr | 66.3 % high heating value 75.8 % low heating value | 6.1 grams/hr 0.09 grams/hr/10,000 BTU output | 0.17 lbs/million BTU input | 0.26 lbs/million BTU output | 17.4 grams/hr |

1 - Based on 8-hour test for stick wood models and 4-hour test for continuous feed models.

2 - EPA Phase 2 qualified level is 0.32 pounds of fine particles per million BTU of heat output (weighted average representing the range of burn rates expected in a year) and a maximum individual test run of 18.0 grams per hour. Typically, the maximum individual test run is the maximum heat output burn rate.

ARTICLE 311: CERTIFICATE OF COMPLIANCE

Section 311.01: Purpose

Accessory Buildings, including detached garages, barns, sheds and other such buildings, have become integral to the “Rural Character” of the Town, with such “Rural Character” needing preservation and promotion as stated in the Town’s Comprehensive Plan. Accessory Buildings must meet the setback standards as defined in Chapter 7. ZONING REGULATIONS and elsewhere in this Code, however, physical conditions of the land in any given circumstance may make the ability to place an Accessory Building in a location that complies with all setbacks, unreasonable if not impossible. In such circumstances, an applicant for a Building Permit for such an Accessory Building may seek relief under this Article, and request that a Certificate of Compliance be issued, allowing such setback non-conformity. Such non-conformity may include relief from any yard or road setback defined in this Code, or relief from the requirement that no Accessory Building be closer to the front lot line than the principal dwelling. In no case shall a Certificate of Compliance be used to grant relief from Accessory Building size, number, or height requirements of this Code. In those cases a variance must be sought.

Section 311.02: Procedures

The Certificate of Compliance is an administrative approval granted by the Town through its Building Official and Town Board. It is not a Zoning application or Zoning permit that requires a public hearing but rather, is an administrative tool used by the Town Board and its Building Official to grant Accessory Building setback relief, if such relief is justified.

The Building Official and one Town Board member will do the initial site visit with the applicant. The Certificate form will require the applicant to provide their name, address, contact information, legal description or parcel ID, a description of the setback relief desired, and justification. A site diagram provided by the applicant, showing the lot boundaries, setbacks and desired building location, along with an aerial photo with contours if available, must be attached for the Certificate of Compliance application to be deemed complete.

During the site visit, the Town will complete the Certificate, answering questions in the “check list” as specified below in this Article. To approve setback relief the Town must make a determination that a compliant, or substantially more compliant, location for the building is not possible on this site, and a question of this nature will be in the “check list.” If the Board member, in consultation with the Building Official, believes that a complying, or substantially more complying, location does exist, he/she would recommend preliminary denial of the application by stating so on the form, then date and sign.

The final determination to deny must be made by the Board, at a future regular Board meeting, at which point the applicant may appeal the preliminary denial.

If the Board member, in consultation with the Building Official, determines the application merits approval because no compliant, or substantially more compliant alternate location exists, he/she would recommend preliminary approval, provide additional conditions of grant

such as screening, then date and sign. Such determination to approve must be made by the Board, at a future regular meeting. The Board may state conditions of grant of approval, such as building material, appearance and color if applicable, and any screening requirements, including that existing vegetation must remain. Screening requirements must address the need for year-round screening, thus typically evergreen in type.

After consideration, the Board, by motion, shall approve or deny the application, and the Board Chair shall so indicate on the Certificate, date and sign.

If the Certificate of Compliance is approved memorializing the Town Board's grant of setback relief and any conditions of grant, the Certificate of Compliance must be attached to, and will be deemed part of, the eventual Building Permit.

Section 311.03: Performance Standard

The Certificate of Compliance cannot be used to grant relief beyond 80% of the applicable setback standards. Thus, a new accessory building must meet at least 80% of all required yard setbacks and further, a new accessory building cannot be placed any closer to the front lot line than 80% of the primary dwelling's existing setback from the front lot line. Anyone seeking more relief than the performance standard specified herein is not eligible for a Certificate of Compliance, and must seek a variance.

Section 311.04: Certificate of Compliance Form and "Checklist"

- A. A Certificate of Compliance form will be created, which will be used initially as the application and then, will serve as a record of the Town Board's action on the application, and if approved, then serves as the granted Certificate of Compliance.
- B. The Certificate of Compliance form will contain the following:
 1. Space to identify the applicant including name, address, legal description or parcel ID, home phone number and/or cell phone number, FAX number and email address, and date,
 2. A narrative provided by the applicant, stating the needed setback relief and the justification for granting such relief.
 3. A "check list" filled out by the Town, containing the following:
 - State the specific setback requirement(s) needing relief
 - Does a substantially more compliant, location exist? YES or NO. (This determination is made by the Town Board member on site.) If YES, state the compliant location and other relevant information, proceed to the bottom of the form and indicate under Preliminary Action: "DENIED," date and sign. (Indicate to the applicant they may appeal this preliminary denial to the Town Board.) If NO, state the justification

for approval in a brief narrative provided by the Board member and continue.

- If screening is required from the road, the Town will recommend type, amount, size and location.
- If a neighbor's viewshed will be affected by granting this relief, state the neighbor's name and address, and contact the neighbor, letting them know the Town Board will be considering this setback relief at their next meeting, and that they may attend and give comment, either for, or against, granting the relief.
- If screening is required to protect a neighbor's viewshed, the Town will recommend type, amount, size and location. Indicate under Preliminary Action: "APPROVED," date and sign.

4. Space to accommodate the Board's final action, date and signature.

Section 311.05: Deemed Compliant

An accessory building subject to an approved Certificate of Compliance that grants setback relief will be deemed compliant as to meeting setback requirements.

Section 311.06: Additions to Accessory Buildings

- A. A citizen who wishes to make an addition to a compliant accessory building, and such addition will adhere to the setback performance standard as stated herein, may apply for a Certificate of Compliance for that addition. An addition that will be in violation of the performance standard can only be approved by variance.
- B. A citizen who wishes to make an addition to a non-compliant accessory building, may apply for a Certificate of Compliance if said addition will adhere to the setback performance standard as stated herein. The Town may, as a finding for denial, take into consideration the nature and extent of the non-conformity of the existing building.

Section 311.07: Township Record

A record of all Certificates of Compliance, whether approved or denied, will be kept by the Building Official and by the Town Clerk. The applicant may record an approved Certificate of Compliance at the County.

Section 311.08: Additional Jurisdictions

Before a building permit is issued, the applicant shall seek required approval from any other jurisdictions with authority, such as the County who has control by ordinance over the Shoreland and St. Croix River Overlay Districts.

Section 311.09: Fee

An non-refundable Application Fee as provided in the Town's schedule of Fees and Escrows will be collected at the time of the Certificate of Compliance application.

BUSINESS REGULATIONS

ARTICLE 401: MINING, SAND AND GRAVEL EXCAVATION

Section 401.01: Adoption of Model Mining Ordinance

There is hereby adopted for the purpose of regulating mining, the Model Mining Ordinance No. 85 for Communities in Washington County as adopted on December 18, 1990, by the Washington County Board of Commissioners and herein referred to as the "Model Mining Ordinance". Not fewer than three copies are on file in the office of the Town Clerk. That said Model Mining Ordinance is hereby adopted in its entirety, including amendments thereto, with the following additional provisions as required by the Town of May. In the event of conflicting provisions in the text of either the Model Mining Ordinance or the Town's Mining, Sand and Gravel Excavation Article, the more restrictive shall apply.

Section 401.02: Scope

Article 401 is intended to impose restrictions on the removal and processing of sand, gravel, and rock within designated gravel pits in the Town. It is the intent of the Town Board that the standards imposed by this Article apply equally to all entities, public and private.

Section 401.03: Asphalt and Concrete Plants Prohibited

Gravel mining operations shall not include operation of asphalt plants or concrete plants.

Section 401.04: Town Mining Permit Required

- A. Town Permit Required. No persons, firm or corporation shall do any of the following within the Town, without first obtaining a Mining Interim Use Permit from the Town Board:
 - 1. Open, operate or maintain any sand or gravel pit or any other pit, place or grounds for the excavation of sand, gravel or other soil.
 - 2. Excavate, remove, or store any sand gravel, rock, dirt, clay or any other material deposits.
- B. Land Owner Use. No permit shall be required by the owner of land to take gravel or sand for the use on the premises or to take products which are to be used on said premises.
- C. Annual Renewal. Mining permits shall be renewable annually and shall expire one year from the date of issuance. Failure to comply with the conditions of such permit

as hereinafter set forth shall be grounds for revocation of the same or for refusal to renew the same upon expiration thereof.

Section 401.05: Requirements of Application

- A. Prior to the issuance of a Mining Interim Use Permit, the following requirements shall be included in the application on a form supplied by the Town:
1. The name and address of the applicant, mining operator and the owner of the land.
 2. The legal description of the land where the mining shall occur.
 3. The estimated amount of area proposed to be mined in acres or the amount of disturbed area already mined in acres.
 4. Copies of any agreements contemplated or entered into between the owner of such lands and any other person, firm or corporation for the operation or maintenance of the proposed mining operation.
 5. The highways, streets, or other public ways within the Town on which the excavation material will be transported.
 6. The application fee as established by the Town Board.

Section 401.06: Hours of Operation

Operations shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be allowed on Sunday and legal holidays. Operation shall be defined to include the driving of all hauling trucks or equipment into or out of a gravel pit, loading, repairing, roadwork or engine start-up of any kind. Crushing operation is allowed Monday through Friday from 7:00 a.m. to 7:00 p.m., and no holidays. In the case of a public emergency such as a flood or whenever any reasonable or necessary repairs to equipment are required, the Town Board may allow an exception to this requirement. The owner and/or applicant shall obtain a waiver from the Town Board for any operations outside of the hours listed herein.

Section 401.07: Fencing Requirement

The owner and/or applicant shall properly fence any pit so that said pit or any standing water is not a hazard. Said fence is to be maintained at all times pursuant to Town standards.

Section 401.08: Appearance

- A. Maintenance of Buildings. Buildings shall be maintained in a safe condition in accordance with accepted industrial practices.

- B. Weeds. Weeds shall be controlled.
- C. Trees. No presently standing trees shall be removed nor their roots damaged without advance authorization, in writing, by the Town Board.

Section 401.09: Dust and Dirt Control

That the owner and/or applicant shall construct, maintain and operate all equipment in such a manner as to minimize dust conditions. All operations shall meet the standards of the State Pollution Control Agency. Calcium chloride or other Town Board approved dust control material will be applied by the owner and/or applicant to travel routes and other areas subject to disturbance, whenever necessary, to control dust. A class five surface or the equivalent on mining property roadway with the ability to support machinery and traffic shall be maintained by the owner and/or applicant. The Town Board may require a blacktopped road if deemed necessary.

Section 401.10: Haul Roads

- A. Map of Highway, Streets, Roads and Other Public Ways. The owner and/or applicant shall submit to the Town a detailed map of the highways, streets, roads and other public ways within the Town upon and along which the material removed shall be transported. The Town Engineer shall inspect such roads proposed to be used by the owner and/or applicant and shall recommend to the Town Board necessary upgrading or repairing of such roads prior to their use of said roads by the owner and/or applicant. It is the responsibility of the owner and/or applicant to make necessary repairs.
- B. Designation of Haul Roads. Based upon the map submitted in Section 401.10.A, the Town Board shall designate said haul roads and shall incorporate the recommendations of the Town Engineer into the permit which is issued.

Section 401.11: Maintenance of Haul Roads

- A. Responsibility for Maintenance of Haul Roads. It shall be the responsibility of the owner and/or applicant to maintain said haul roads in accordance with the terms as set forth in the Mining Permit.
- B. Removal of Extracted Material Upon Roads. The owner and/or applicant shall remove any extracted debris/materials upon and along the highways, streets, and other public ways in the Town as the Town Engineer shall order and direct.
- C. Periodic Inspections. The Town Engineer shall make periodic inspections of said haul roads to assure compliance with the Mining Permit and upon completion of the operational period of said gravel pit, the owner and/or applicant shall make any

necessary repairs to said haul roads as recommended by the Town Engineer. All costs of the inspections above described shall be borne by the owner and/or applicant.

- D. Shared costs of Maintaining Haul Roads for Two or More Mining Operations. In cases where two or more operational gravel pits are operating haul roads on the same roads, the division of costs of repairs to said roads shall be based on the average amount of tonnage removed from the pit for the previous two year period and each owner and/or applicant shall pay the costs of repair and inspection for said road according to the percent of use, as determined by the tonnage hauled compared to the other owners' and/or applicants' use. Any section of a designated haul road traveled by only one owner and/or applicant shall be the sole responsibility of the owner and/or applicant who uses that section of the road.

Section 401.12 Mining Below Groundwater Level

- A. Additional Standards. Additional standards are required in Section 701.04 of the Model Mining Ordinance.
1. No direct storm water runoff can be discharged into a groundwater pond without first passing through a treatment pond to remove contaminants. This treatment pond must be clay lined to create an impervious bottom, and shall be designed to meet National Urban Runoff Program (NURP) criteria.
 2. Groundwater monitoring wells must be installed by the mining operator between the groundwater pond and wells located downstream hydrologically. The water shall be regularly tested by a certified testing company during the years of use to detect contaminants prior to reaching private wells.
 3. All ground water ponds must be backfilled in conformance with the Model Mining Ordinance, unless approved by the Town Board prior to commencement of extraction.
 4. Ponds which meet these minimum size and depth requirements must also meet the requirements of the Model Mining Ordinance.
 5. The permanent ground water ponds shape must be natural in appearance.

Section 401.13: Manmade Wetlands

- A. Additional Standards. Additional Standards are required in Section 701.03 of the Model Mining Ordinance.
1. Where the hydrology dictates, wetland and ponding areas shall be lined with impervious materials to create an impervious bottom.
 2. The organic soils depth shall be at least one (1) foot in depth.

3. The side slopes shall vary from 6:1 to 10:1.
4. The depth of the pond shall vary.
5. The pond's shape shall be natural in appearance.
6. The maximum five (5) year bounce (difference between normal water level and high water level) shall be less than two (2) feet.
7. Ponds and wetlands shall be designed to meet National Urban Runoff Program (NURP) Guidelines unless waived by the Town Board.

Section 401.14: Drainage

- A. Additional Standards. Additional standards are required in Section 701.05 of the Model Mining Ordinance.
 1. The restoration plan shall not change the existing drainage patterns.
 2. The restoration plan shall avoid concentration water in ditches which would increase long term erosion potential.
 3. When it is necessary to use ditches, they shall be designed for maximum velocity of two (2) feet per second.
 4. The ditch alignment shall vary and also appear natural.

Section 401.15: Revegetation

- A. Additional Standards. Additional standards are required in Section 701.06 of the Model Mining Ordinance.

1. Minimum topsoil depth shall be based on the following rates:

| <u>Slope</u> | <u>Topsoil Thickness</u> |
|--------------|--------------------------|
| 0 - 5% | 4 inches |
| 5 - 10% | 5 inches |
| 10 - 15% | 6 inches |
| 15 - 20% | 7 inches |
| 20 - 25% | 8 inches |

2. Seeding shall be of a variety suitable for rural settings where minimum mowing, fertilization and watering can be expected.
3. Prior to seeding, the area shall be sprayed to kill noxious weeds.

4. A commercial grade fertilizer (12-12-12) must be applied at a rate of 400 pounds per acre.
5. The seed should be sown by means of a mechanical drill or other approved method which will maintain the specified rate of application.
6. Straw mulch shall be applied at the rate of two (2) tons per acre on a three to one or flatter slope. The mulch shall be anchored with a Finn type mulching disk, or other approved equipment. This equipment shall anchor the material by punching it into the soil to a depth of approximately 2 to 3 inches. The anchoring equipment shall be operated at right angles to the direction of surface runoff wherever practical.

On a 3:1 or steeper slope, mulch material shall be netted and stapled.
7. Seeding should only take place between the following dates: April 1 through June 10, and August 10 through September 15.

Section 401.16: Bond Requirements

- A. Posting of Bond With Town for Repairing Highways, Streets, or Other Public Ways. The owner and/or applicant must post with the Town Board a bond, cash deposit or other security, in such form and sum as the Town Board may require, running to the Town conditioned to pay the Town the cost and expense of repairing any highways, streets, or other public ways within the Town made necessary by special burden resulting from the hauling and transporting of excavated materials by the owner and/or applicant. The amount of the bond shall be recommended by the Town Engineer. The surety bond shall be further conditioned to comply with all the requirements of this Article and the Town Mining Permit as issued, and to hold the Town free and harmless from any and all suits and claims for damages resulting from the negligent removal or storage of excavated material within the Town.
- B. Posting of Performance Bond, Cash Deposit, or Letter of Credit With Town for Reclamation of the Property. The owner and/or applicant shall post a performance bond, cash deposit or letter of credit, in such form as the Town Board may require, running to the Town. The amount of said security shall be one hundred and twenty-five (125) percent of the total costs of reclamation of the property, as estimated by the Town Engineer. The total costs of the reclamation shall include inspection by the Town Engineer and any costs incurred by the Town for completion of the work in case of default. Said security to be approved by the Town Attorney and held until released by the Town.
- C. Bond Cancellation. All bonds shall contain a clause providing that they shall not be canceled by the bond company without thirty (30) days written notice to the Town of intention to cancel or non-renew.

Section 401.17: Insurance Requirements

- A. The owner and/or applicant shall secure and maintain such insurance from an insurance company authorized to write casualty insurance in the State of Minnesota as will protect them and their agents and the Town from claims for bodily injury, death or property damage which may arise from operations under a Mining Permit duly issued under this Article. No work shall be commenced until the Town has obtained all insurance required under this paragraph in the form of an original Certificate of Insurance or certified copy of the same. All insurance policies shall contain a clause providing that it shall not be canceled by the insurance company without thirty (30) days written notice to the Town of intention to cancel.
- B. The amounts of insurance shall be as set from time to time by Resolution of the Town Board pursuant to Chapter 13 of the Code.

Section 401.18: Escrow Accounts

The Town Board may require cash escrows of those owners and/or applicants who have been found to be in violation of either the Model Mining Ordinance or the terms of this Article. Specific findings of fact outlining the violations shall be given to the owner and/or applicant following a public hearing called for the purpose of reviewing the alleged violations. Said cash escrows shall be set by the Town Board and be reviewable on an annual basis. A cash escrow may be used in lieu of revocation of the Mining Permit for violations of the Model Mining Ordinance and/or this Article, if determined to be in the best interests for the general welfare of the Town.

Section 401.19: Additional Requirements

The owner and/or applicant shall satisfy such other requirements as the Town Board shall from time to time deem proper and necessary for the general welfare and for the protection of the citizens of the Town.

Section 401.20: Inspection

As a condition of approval of the Mining Permit, the Town and its consultants have the right to inspect subject property after providing reasonable notice to the owner and/or applicant.

Section 401.21: Inspection Fees

The owner and/or applicant shall reimburse the Town for all costs of the periodic inspections by the Town Board and staff, the Town Engineer, or other Town consultants.

Section 401.22: Violations and Penalties

- A. Violations. Any firm, person or corporation who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. Penalties. In the event of a violation or threatened violation of any of the terms of this Article, the Town may take appropriate action to enforce the Article, including application for injunctive relief, action to compel performance, or other appropriate action to court, if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.
- C. Enforcement. Whenever necessary to enforce any of the provisions of this Article or whenever there is reasonable cause to believe that a violation of this Article has occurred or is about to occur, an authorized agent of the Town may enter any building or upon any premises at all reasonable times to inspect the same or to perform any duties imposed by this Article, provided that if such building or premises is occupied, the authorization shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Town shall have recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

ARTICLE 402: SMALL BUSINESS PERMIT

Section 402.01: Purpose and Intent

It is the intent of the May Town Board to allow small business operations in AG and RR zoning district classifications subject to the criteria found in this Article.

Section 402.02: Definitions

- (1) Small Business. A small business operation charges fees for goods and services but does not include home occupations which are those businesses conducted solely within a residence and which are further defined below, nor does it include any agricultural uses. Those businesses which only operate off-site, have no employees come on site, and where all on-site business related equipment and materials if any, are always stored inside a building and only come and go once a day, are not considered Small Businesses and may operate without a Small Business Permit. Such businesses may have only one business vehicle parked outside. The Town may reasonably direct where such vehicle is parked. (Amended Ord. 2014-10, Effective March 20, 2015)
- (2) Operator. The operator of a small business shall reside in the principal dwelling on the property. Further, the operator must be the owner of the property as defined herein, or must be related by blood, marriage or adoption to the owner of the property.
- (3) Minimum Acreage Required. A small business must be operated on a minimum of ten or more acres of land. Existing businesses may operate on five (5) or more acres of land provided they meet or exceed all criteria set forth in this Code and a Small Business License Permit was applied for and approved on or before June 1, 1992. After June 1, 1992, any existing or future business operation shall be required to adhere to the ten (10) acre land requirement.
- (4) Number of Employees. No more than five full time (40 hours per week) employees or full-time equivalents may be employed, although additional seasonal workers may be acceptable on a case-by-case basis.
- (5) Home Occupations. A small business permit is not required for a home occupation. "Home occupation" means any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on only within a dwelling unit and not in an accessory building and not involving exterior storage of equipment or additional parking or signage or exterior display of goods or drive-in traffic, which traffic is excessive in the sole discretion of the Town.
- (6) Owner (Ownership). Owner (ownership) means the Fee Simple Owner or Contract for Deed purchaser of the property containing the small business. In no case shall owner mean renter or leaseholder.

Section 402.03: Plan Review Requirements and General Operational Standards

- A. No small business use may be lawfully established without first obtaining an Interim Use Permit pursuant to Article 709 of this Code.
- B. Site Plan Required. A site plan must be prepared and approved that meets the following criteria:
 - 1. Accessory Buildings. The size of accessory buildings in which the operation is conducted shall not exceed the standards set forth in Chapter 7, Section 705.05.
 - 2. Setback From Property Lines. No accessory building in which a business operation is being conducted shall be located closer than 100 feet to any property line.
 - 3. Exterior Storage. Storage of equipment, machinery, vehicles, trailers or materials shall be in an accessory building, unless the applicant can demonstrate to the satisfaction of the Town the necessity for exterior storage. In that case, all equipment and materials shall be screened such that it is not visible from any neighboring property or public roadway.
 - 4. Screening and Landscaping. Where screening and landscaping are required to diminish any potential adverse visual impact on adjacent properties, berms and natural materials are to include trees, shrubs, bushes and terracing. Fencing shall be of a style, material, and color in keeping with the exterior of the principal dwelling.
 - 5. Parking. A small business shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifty (50) feet from the edge of a public road or any property line. Any additional area planned for temporary parking shall first be approved by the Town and be treated as exterior storage and appropriately landscaped and screened.
 - 6. Lighting. Exterior lighting for security shall be minimal such that it would not appear significantly different than residential lighting. In no case should such lighting interfere with the privacy or enjoyment of adjacent properties or create a visual nuisance for public streets.
 - 7. Traffic/Noise/Nuisances. Traffic related to the small business shall not annoy, injure or endanger the health, safety, comfort or repose of the public or otherwise constitute a nuisance under Article 506 of this Code. No small business shall produce light, glare, noise, fumes, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

8. Hours of Operation. No business shall be conducted between the hours of 10 p.m. and 7 a.m. Hours of operation may be set by the Town Board on a case-by-case basis.
9. Advertising/Signage. Advertising signs shall be limited to one (1) on-site, unlighted sign constructed of natural materials. This excludes lighted or neon signs and excessive designs or materials. Signs shall not exceed four (4) square feet in surface area and no part of the sign shall exceed six (6) feet in height. Signs shall conform to the standards set forth in Chapter 10 of this Code and, in the event of any conflict between the terms of this Article and Chapter 10, the more restrictive provision shall apply.
10. Drainage. Surface drainage shall be confined to the existing drainage volume. Grading and drainage plans shall be of sufficient detail to drain and dispose of all surface water accumulated on the site.
11. Chemical/Pollutant Storage and Disposal. All hazardous chemicals, including gasoline, oil, solvents, paints, etc., stored on-site shall be located and maintained in compliance with federal, local and state fire, police and environmental rules and regulations.

Section 402.04: Interim Use Permit Required

- A. An Interim Use Permit is required for all small businesses. Each applicant shall make application for a permit on a form provided by the Town. The applicant shall provide proof of ownership of the property, legal description, and a demonstration of adherence to Section 402.03. Permits are not transferable to other properties or individuals.

A person with a formal purchase interest in a property may make application for a Small Business Interim Use Permit on that property even before they meet the requirements of ownership as defined herein, so long as they provide evidence of a valid agreement to purchase the property and they provide written permission from the current owner to make such application. If the IUP is granted, such prospective owner may not commence operation of the small business until they have closed on the purchase, meet the requirements of ownership and residency as stated herein, and an IUP has been issued by the Town and executed by the parties.

- B. So as to maintain compatibility and protect the health, safety and general welfare of the public, the Town may impose additional limitations or requirements as it deems necessary.

Section 402.05: Application

- A. Permit Fee. There shall be a permit fee which shall be set periodically by Town Board Resolution as stated in Chapter 13 of the Code.
- B. Escrow. An applicant shall submit an escrow in the amount set periodically by Town Board Resolution and as stated in Chapter 13 of the Code to cover costs incurred in reviewing the application.
- C. Periodic Review. Periodic review of a small business permit is imposed as a condition of its grant. Every approved business operation may be reviewed on a periodic basis, in the discretion of the Town, to ascertain compliance with the conditions stipulated in the permit.

Section 402.06: Renewal

- A. Annual Renewal. A small business permit may be renewable annually or otherwise in the discretion of the Town Board and a permit renewal fee may be imposed which shall be set periodically by Town Board Resolution and the same must be submitted to the Town Clerk within thirty (30) days of the expiration of the permit.
- B. Review Escrow. The Applicant shall submit an escrow in the amount set periodically by Town Board Resolution and stated in Chapter 13 of the Code to cover costs incurred by the Town in conducting any review of a permit.

Section 402.07: Revocation

- A. Non-Compliance with Conditions. Non-compliance with the conditions set forth in the Small Business License or Permit or noncompliance with Town ordinances or state or federal laws and regulations may render the License or Permit subject to revocation at any time in the discretion of the Town Board.
- B. Change in Small Business Activity. Those License or Permit holders whose actions may be deemed to create a substantial change from the activity on which their Small Business License or Permit was based will be required to appear before the Town Board for review of their License or Permit. A substantial change is defined as a change from the conditions found in the Small Business License or Permit as prepared by the applicant and approved by the Town. If the Town Board finds that there has been a substantial change in activity which has occurred on the License or Permit holder's property, a public hearing shall be held within sixty (60) days after due mailed notice to the License or Permit holder and surrounding property owners for possible revocation of the License or Permit.

ARTICLE 403: LIQUOR LICENSES

Section 403.01: Intoxicating and Non-intoxicating Liquors

Liquor licenses for either intoxicating or non-intoxicating liquors are issued by Washington County pursuant to Minnesota Statute 240A, with consent required by the Town Board for final approval through Resolution. The Town may impose an additional license fee other than that which is imposed by the County, not to exceed 20 percent of the County license fee.

(See State Liquor Minnesota Statutes Chapter 340A).

ARTICLE 404: BINGO, GAMBLING, VIDEOGAME LICENSES

Section 404.01: Regulation

Regulation of all bingo, gambling devices and videogames of chance are adopted by reference from Minnesota Statute Chapter 349, 349.11 through 349.61. Licenses are required by the State of Minnesota.

Chapter 5

PUBLIC HEALTH, SAFETY AND WELFARE

ARTICLE 501: ANIMAL CONTROL

Section 501.01: Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) Abandoned. Means to leave a dog at large within the Town without intending to return to or recover it. It shall also mean to purposefully leave a dog in the possession of the animal warden to avoid paying impoundment and/or boarding costs
- (2) Abused Animals. Means (a) any animal which is mistreated, beaten, tormented or teased, or (b) is deprived of potable water or food or shelter, or (c) is kept under unhealthy conditions, or (d) is abandoned, or (e) an animal which is trained for fighting other animals.
- (3) Altered. Means any female dog that has been spayed or any male dog that has been castrated.
- (4) Animal Control Officer. Means the Town Board and/or any persons or agencies designated by the Town Board.
- (5) Animal Warden. Means any person or agency including the Animal Control Officer designated by the Town Board to house, hold, confine, or board dogs seized and/or impounded herein. The Animal Warden shall be appointed by and serve at the pleasure of the Town Board. The Animal Warden shall be construed to include the law enforcement agency routinely engaged in law enforcement within the Town.
- (6) At Large. At large means off the premises of the owner and not under the physical control (by leash or by voice) of the owner, a member of the owner's immediate family, or a person designated by the owner.
- (7) Bona fide Livestock Operation. Means a farm (of forty (40) acres or more in size) on which horses, cows, swine, poultry, sheep, goats, or other common farm animals are kept, raised, bred or sold as a part of a business enterprise.
- (8) Dangerous Dog and Potentially Dangerous Dog. Have the meanings ascribed to those terms by M.S. §347.50, and specifically as follows:

- (a) "Dangerous Dog" means any dog that has:
 - (i) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
 - (ii) Killed a domestic animal without provocation while off the owner's property; or,
 - (iii) Been found to be potentially dangerous, and after the owner has noticed that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

- (b) "Potentially Dangerous Dog" means any dog that:
 - (i) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
 - (ii) When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or,
 - (iii) Has a known propensity, tendency, or disposition to attack, unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

The terms "dangerous dog" and "potentially dangerous dog" shall also be construed to include similar classifications from other statutes or ordinances which are substantially in conformity with Minnesota Statutes §347.50, whether or not the same words are used.

- (9) Kennel, Private. Means any place where four (4) or more dogs over six (6) months of age are kept primarily for personal companionship, for recreational use or for performance events in addition to the purpose of improving the physical soundness and temperament of such dogs, and where the breeding and selling of animals is incidental to the occupancy of the premises for residential purposes.

- (10) Kennel, Small Business. Means any place where four (4) or more dogs over six (6) months of age are bred and/or sold for re-sale, individually, or in litter lots, whether or not any of these animals are also kept for personal use. Small Business Kennels are also places where dogs are boarded, groomed, or trained for a fee. The operation of a Small Business Kennel is secondary or incidental to the occupancy of the premises for residential purposes.

- (11) Owner. Means any person or the parents or guardians of a person under eighteen (18) years of age who owns, harbors, keeps or has custody of a dog.

- (12) Person. Means any individual, partnership, corporation, firm, or group, however organized.

Section 501.02: Exemptions

Except where duties are expressly stated, this article does not apply to hospitals, clinics, and other premises operated by licensed veterinarians exclusively for the care and treatment of dogs.

Section 501.03: Animal Control Officer

The Animal Control Officer shall have police powers necessary for enforcement of this chapter, including authority to issue complaints for violations.

Section 501.04: Animal Warden

The Town Board may appoint an Animal Warden and establish compensation for said position. Such person or agency shall serve at the pleasure of the Town Board. The Town Board shall annually review the work and compensation of the Animal Warden.

Section 501.05: Interference with Enforcement

No unauthorized person shall break open the Animal Warden's pound or attempt to do so, or to take or let out any animals therefrom, or to take or attempt to take from any Animal Control Officer or Animal Warden any dog taken up by him in compliance with the Town ordinance or statute, or in any manner to interfere with or hinder such officer or Animal Warden in the discharge of their duties.

Section 501.06: Rabies Inoculation of Dogs

- A. All dogs owned, kept or harbored in the Town over the age of six (6) months shall be inoculated for rabies and shall be re-inoculated according to standard veterinary practices thereafter. Such vaccination must be performed by or under the direct supervision of a veterinarian duly licensed to practice veterinary medicine in the state in which the vaccine is administered. A certificate from the veterinarian inoculating said dogs shall be exhibited to the Animal Control Officer upon demand.
- B. Each dog shall wear a sturdy collar for aid in identification with the veterinarian's metal tag showing proof of said current rabies inoculation. At the owner's discretion, a tattoo or implanted microchip may be used in lieu of the collar and tag.
- C. Unvaccinated dogs acquired or moved into the Town must be vaccinated within thirty (30) days of purchase or arrival unless under the minimum age specified in subsection A hereof.
- D. A dog temporarily remaining within the Town for less than thirty (30) days is exempt from the vaccination requirements of this section. It is unlawful to bring a dog into the Town that does not comply with all animal health and import laws of this state.

Section 501.07: Animal Bites and Animal Exposed to Rabies

- A. Any law enforcement officer or Animal Control Officer may enter upon the private property of any person while in pursuit of any dog under probable cause to believe that such dog has bitten a person or animal, or that such dog is rabid.
- B. Subsection A notwithstanding, whenever any person who owns, possesses or harbors any dog within the Town learns that the dog has bitten any human being, such person shall immediately quarantine such dog for a period of at least ten (10) days, keeping it apart from other animals until it is determined whether the dog has rabies. The quarantine may be by the person owning the dog if such dog has a current rabies vaccination at the time the bite occurred. If the dog does not have a current rabies vaccination at the time the bite occurred, the dog must be impounded at a licensed pound or with a licensed veterinarian at the owner's expense. After the required ten (10) day quarantine, the dog shall be examined by a licensed veterinarian to insure that there are no clinical signs of rabies.
- C. If the dog owner cannot be located or advised of the dog bite within two (2) hours of the occurrence, or if the owner fails to quarantine the dog as required by this Ordinance, the Animal Control Officer or Animal Warden shall cause the dog to be impounded and so quarantined. After the required ten (10) day quarantine, if the dog is still unclaimed, the dog shall be humanely euthanized and tested for rabies; if claimed, the dog shall be examined by a licensed veterinarian to insure there are no clinical signs of rabies. If no signs of rabies are observed, the dog can be released to the owner as specified in Section 501.13 of this Ordinance.
- D. The Animal Warden, Animal Control Officer, or other designate of the Town shall have the authority to verify if the dog is properly quarantined. Any veterinarian quarantining an animal shall notify the Animal Warden before the release of such animal.
- E. Any dog known to have been bitten by a rabid animal or exposed to rabies shall be quarantined. If, however, the dog is at large and cannot be apprehended after reasonable effort, the dog may be immediately destroyed. After quarantine, if proof of rabies immunization is furnished and booster injections are given by a licensed veterinarian at the expense of the owner, the dog may be released to the owner as specified in Section 501.13 of this Ordinance. If it cannot be proven that the animal has a current rabies immunization, the owner may, at his discretion, make provision for a suitable quarantine under the direction of the Minnesota Board of Animal Health for a period of not less than six (6) months.

Section 501.08: Running at Large Prohibited

- A. No person shall allow dogs, livestock or farm animals to run at large at any time, except as provided in subsection B of this section.

- B. This provision shall not apply to dogs used as a necessary element of a bona fide livestock operation.

Section 501.09: Abandonment/Abuse

No person shall abandon any dog within the Town.

Animals which are suspected of being abused shall promptly be reported to the County Public Health Department for investigation.

Section 501.10: Nuisances

- A. The following are public nuisances and unlawful:

1. Any dog that damages property (that is not the property of the owner), including plantings, lawns or structures, or that deposits fecal matter off of the owner's property that the owner fails to remove promptly.
2. Any dog that, without provocation, chases, molests or approaches pedestrians or bicyclists in a threatening manner upon the streets, sidewalks, right-of-way, or any public property, or habitually chases automobiles on the public streets or highways.
3. Any dog that is kept under unsanitary and/or inhumane conditions such that the maintenance or keeping of the animal creates odors to the annoyance of the public in the vicinity.
4. Any dog that kills or attacks another domestic animal or livestock without provocation while off the owner's property.
5. The owning, keeping, or harboring of any dog which shall by any noise, unreasonably and/or excessively disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably and/or excessively disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by a dog which can be heard by any person, including an Animal Control Officer or law enforcement officer, from a location off the dog owner's property where the dog is being kept, and which noise occurs repeatedly over at least a five (5) minute period of time with one (1) minute or less lapse of time between each animal noise during the five (5) minute period. This provision shall not apply to dogs that are responding to trespassers or to dogs that are teased or similarly provoked to bark.

- B. Any person seeking immediate relief, may, by telephone, notify the Town Clerk, Animal Control Officer, or law enforcement officer of an alleged violation of this Ordinance. A telephone call does not, however, constitute a formal complaint to initiate the citation

process. All formal complaints shall be submitted in writing to the attention of the Animal Control Officer and shall describe the dog, state the acts committed by the dog, the name and address of the person owning or harboring the dog, and the name and the address of the person making the complaint. The Animal Control Officer shall then promptly notify the person owning or harboring the dog of the acts complained of, either by letter or door tag, and shall request that the nuisance be abated or eliminated within a specified time period. The Animal Control Officer shall investigate and file a report on the complaint.

- C. Upon receipt of a second complaint of a violation of this Ordinance, the Animal Control Officer or law enforcement officer shall investigate and file a second report on the complaint. If the offense is corroborated by the investigation, the Animal Control Officer shall, by certified letter, notify the person owning or harboring the dog of the violations complained of, and require that the nuisance be abated or eliminated within twenty-four (24) hours or some other reasonable time specified in the letter. A copy of the letter shall be mailed to the person making the complaint.
- D. If the owner fails to take corrective action within twenty-four (24) hours (or within the time specified in the letter), the Animal Control Officer shall contact the appropriate law enforcement agency and/or the Town Attorney, inform them of the alleged violation, and request that the owner be cited.

Section 501.11: Dangerous Dog Prohibition

- A. It shall be illegal for any person to own, keep, possess or harbor any dog that has been declared a dangerous dog. This prohibition shall apply whether said declaration has occurred in the Town or in some other jurisdiction. This prohibition shall also apply whether said declaration was made pursuant to M.S. §347.50 or pursuant to another statute or ordinance which is substantially similar to M.S. §347.50.
 - 1. If a dangerous dog or potentially dangerous dog has bitten a person, then the dog shall first be quarantined according to the provisions of Section 501.07. Following said quarantine period, then the provisions of paragraphs (ii) and (iii) of this Section shall apply.
 - 2. The Animal Control Officer or law enforcement officer shall immediately seize and impound any dangerous dog that is found within the Town. The dog will be kept no fewer than ten (10) calendar days. The owner has until the end of this time period to provide written verification that the dog will be legally removed from the Town, or that the dog will be euthanized. The owner must pay all associated impounding and boarding costs prior to the release of the dog. Upon its release, the dog shall be immediately transported to a location outside of the Town.

3. Any such dog that is not properly claimed within ten (10) calendar days shall be humanely euthanized. The owner of the dog that is euthanized shall be responsible to pay the impounding, boarding and euthanization costs.
- B. This section shall not apply to police dogs under the control of a licensed law enforcement officer during the performance of official police activities.

Section 501.12: Seizure of Dogs; Impounding

The Animal Warden, any law enforcement officer, the Animal Control Officer, or any other person may seize, impound, or restrain any dog found running at large, any dog without a veterinarian's metal tag attesting to its rabies vaccination. Any person or officer (other than the Animal Warden) impounding or restraining such dog shall immediately deliver the same to the Animal Warden. If the animal is collarless, the Animal Warden shall ascertain whether the dog has a tattoo or embedded microchip as a means of identification. The Animal Warden shall thereupon give notice to the owner of the impoundment or, if the owner is unknown, shall post notice of the impoundment at the Town Hall (and at such other places as may be designated by the Town Board). If such dog is not claimed and all fees and charges paid, the Animal Warden shall place the dog in the custody of a suitable person or shelter. Any dog restrained or impounded shall receive humane treatment and sufficient food, water and shelter.

Section 501.13: Impounding and Boarding Fees

- A. The Animal Warden may charge such reasonable impounding fees for the care and board of any dog restrained or impounded and any and all such fees so imposed shall be paid to the Animal Warden at the time of reclaiming the dog. The fees shall be as determined from time to time by the Town Board and established by Resolution. The Town Board shall annually review all fees so imposed by the Animal Warden to determine their reasonableness, and may, by resolution, establish fees and impose additional fees reasonably related to the necessary and reasonable expenses incurred by the Town for the capture, transportation, and/or care of impounded dogs.

All such fees must be paid to the Animal Warden prior to release of the animal. The Animal Warden shall issue a receipt to the owner evidencing such payment. Additionally, except as provided below, the Animal Warden may not release any dog until the owner provides written proof that the dog is currently vaccinated against rabies.

- B. In the case where any dog has been impounded whose rabies vaccination is not current, said dog shall not be released unless the owner first provides written evidence, from a licensed veterinarian, that arrangements have been made to have the dog vaccinated upon its release and provides written proof of vaccination to the Animal Control Officer within thirty (30) days of release. Any written evidence submitted pursuant to this provision shall be deemed inadmissible in any criminal court action against the owner of the dog.

Section 501.14: Kennels; Interim Use Permit Required

It shall be unlawful to operate any kennel unless an Interim Use Permit, with such permit designating a limit as to the number of dogs, to operate the same has been secured from the Town Board in advance. A Small Business Permit shall also be required for a Small Business Kennel prior to its establishment or operation. Any kennel not meeting the definitions herein is strictly prohibited.

Section 501.15: Coordination with Veterinarians

The Town may enter into agreements with veterinarians to assist in the administration of the provisions of this Ordinance. Said agreements shall insure that an orderly system is set up to coordinate the vaccination, impoundment, quarantine, and/or euthanization, as needed, of dogs within the Town. Said agreement shall also provide for a reasonable method of compensating veterinarians for the services that they provide to the Town.

Section 501.16: Constitutionality

If any portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 501.17: Penalty

Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor.

ARTICLE 502: WILD ANIMALS

Section 502.01: Purpose

To protect the health, safety and welfare of the citizens of the Town of May, it shall be unlawful to keep any wild, dangerous or undomesticated animal within the corporate limits of the Town of May, except as permitted pursuant to the provisions of this Article.

Section 502.02: Definitions

"Wild Animal" shall mean and include any mammal, amphibian, or reptile which is of a species which is wild by nature or of a species which, due to size, vicious nature or other characteristics is inherently dangerous to human beings. Examples of wild animals considered capable of inflicting severe bodily harm to humans include but are not limited to:

- (1) Any large cat of the family *Felidae*, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.
- (2) Any member of the family *Canidae*, such as wolves, coyotes, dingoes, and jackals, except domesticated dogs.
- (3) Any crossbreed such as crossbreeds between dogs and coyotes, or dogs and wolves, but does not include crossbred domesticated animals.
- (4) Any poisonous snake such as a rattlesnake, coral snake, water moccasin, puff adder or cobra.
- (5) Any snake or reptile which by its size, vicious nature or other characteristic is dangerous to human beings.
- (6) Any skunk, raccoon, fox, or ferret, unless certified by a veterinarian to be free of rabies, and kept pursuant to a valid DNR permit, said certification to be obtained within seven (7) days of receipt of the animal.
- (7) Any bear, ape, gorilla, monkey (except as exempted by this Article), or badger.
- (8) Any other animal or reptile which is commonly considered wild and not domesticated, excluding "wild horses".

Section 502.03: Exceptions; Permit Required

- A. Conditional Use Permit Application. Any person desiring to keep an animal prohibited by this Article may apply for a temporary Conditional Use Permit from the Town Board. Such permit may be issued for a period not to exceed thirty (30) days and shall specify conditions under which such animals shall be kept. Provided,

however, that no such permit shall be issued unless such prohibited animal is brought into the Town for entertainment, exhibition or show purposes only, or by persons keeping animals for a public zoo as volunteers, docents or otherwise. (A public zoo or other institution engaged in a permanent display of animals, any bona fide research institution or veterinary hospital may be issued a permanent Conditional Use Permit provided applicable zoning requirements are met.)

- B. Nonpoisonous Snakes. Nonpoisonous snakes or snakes not prohibited by this Article, birds kept indoors, hamsters, mice, rabbits, lizards and similar small animals capable of being kept in cages continuously are also exempt and do not require a permit.
- C. Monkeys Trained as Personal Helpers. Handicapped persons may keep monkeys trained as personal helpers by Conditional Use Permit subject to annual review.
- D. Temporary Conditional Use Permit. Before issuance of any temporary or permanent Conditional Use Permit, the applicant shall provide the town with proof of insurance, including public liability insurance with limits of not less than \$1,000,000.00. The insurance shall provide coverage for liability resulting from the ownership or possession of the specific animal or animals being permitted.

Section 502.04: Impounding of Wild Animals

Any wild animal kept in violation of this Article may be impounded by the Town unless such impounded animal is reclaimed and removed from the Town or issued a permit to allow it to remain in the Town or unless the owner petitions the District Court for a determination that the animal is exempt from the provisions of this Article, the animal may be destroyed or sold five (5) days following notice to the owner of such animal of its impoundment and the provisions of this Article.

Section 502.05: Existing Wild Animals

Anyone keeping or maintaining any wild animal at the time this Article is adopted has thirty (30) days in which to comply with the provisions of this Article. Extension beyond thirty (30) days may be granted by the Town Board for good cause, but in no case shall such extension permanently exempt a person from the requirements of this Article.

Section 502.06: Violation

A violation of this Article shall be a misdemeanor violation as enumerated in Article 102, Section 102.09 of this Code.

ARTICLE 503: BURNING PERMITS

Section 503.01: Open Burning Prohibited

It shall be unlawful for any person, firm or corporation to start or allow to burn, any open fire on any property within the Town of May without first having obtained a permit therefore, except for supervised recreational or cooking fires contained within a fire ring no more than three feet in diameter, pit or barbecue grill.

Section 503.02: Persons Designated to Issue Burning Permits

The Town Fire Warden is hereby authorized to issue permits for open burning in conformance with the State of Minnesota Air Pollution Control Rules and reasonable permit conditions established by the Fire Marshal consistent with those rules. The signature of the Fire Warden shall be required for issuance of a burning permit.

Section 503.03: Fees

A fee shall be charged annually on a calendar year. See Fees in Chapter 13 of this Code.

ARTICLE 504: FIREARMS

Section 504.01: Definitions

For purpose of this Article, air gun means any air rifle, air gun, B-B gun, spring gun, or similar device for the propulsion of shot or other metal pellet by means of compressing air or mechanical spring action.

Section 504.02: Discharging Prohibited

- A. No person shall discharge any gun, pistol, revolver or other firearm or air gun within the boundaries of the Town of May, except as allowed by this Article, or unless such person is a duly authorized law enforcement office in performance of duty.
- B. The place of discharge of a firearm within the Township must be five hundred (500) feet or more away from a residence, whether or not inhabited.
- C. There shall be no hunting in Township road rights-of-way.

Section 504.03: Exceptions (Amended Ord. 2014-11, Effective March 20, 2015)

- A. No one is exempt from the 500 foot residence setback prohibition for discharging a firearm as stated in 504.02 B. as it applies to neighboring residences, unless they have written, dated permission from the owner or occupier of such neighboring residences.
- B. Subject to 504.03 A. above, the following persons are exempt from the stated prohibition in 504.02 B. and may discharge a firearm closer than 500 feet of a residence, but only if such residence:
 - 1. is owned or occupied by them, or
 - 2. is on property that is owned or occupied by a relative by blood or marriage, or
 - 3. is on property where they, their spouse and children, are employed and living, if such property is owned by their employer, or
 - 4. is on property where they have written dated permission from the owner or occupier of such residence.

Section 504.04: Violation

A violation of this Article shall be a misdemeanor violation as enumerated in Article 102, Section 102.09 of this Code.

ARTICLE 505: SANITARY SEWER DISPOSAL

Section 505.01: Adoption of Model Sanitary Sewer Disposal Ordinance

There is hereby adopted for the purpose of regulating sanitary sewer disposal, the Model Sanitary Sewer Disposal Ordinance for communities in Washington County as adopted on July 6, 1972, and any amendments thereto by the Washington County Board of Commissioners, of which not less than three copies are on file in the office of the Town Clerk. That said Model Sanitary Sewer Disposal Ordinance is hereby adopted in its entirety, including all amendments thereto.

ARTICLE 506: NUISANCES

Section 506.01: Definitions

In this Article, "nuisance" means a thing, act or use of property which:

- A. Annoys, injures or endangers the health, safety, comfort or repose of the public;
- B. Offends public decency;
- C. Unlawfully interferes with the use of or obstructs or tends to obstruct or renders dangerous for passage, a public water way, park, square, street, alley or highway;
- D. Depreciates the value of the property of the inhabitants of the Town, or of a considerable number thereof; or
- E. In any way renders the inhabitants of the Town, or a considerable number thereof, insecure in life or in use of property.

Section 506.02: Illustrative Enumeration

- A. The following are nuisances affecting health, safety, comfort or repose:
 - 1. All decayed or unwholesome food offered for sale to the public.
 - 2. All diseased animals running at large.
 - 3. Milk which is produced by cows which have not been tested and found free of tuberculosis within the year previous to the offering of such milk for sale to the public.
 - 4. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death.
 - 5. Accumulations of manure and rubbish.
 - 6. Privy vaults and garbage cans which are not fly-tight.
 - 7. Dumping the contents of any cesspool, privy vault or garbage can except at places authorized by law or allowing any cesspool or individual sewage disposal system to overflow in any manner.

8. All noxious weeds, tall grasses and other rank growths. The word "weeds" means all noxious weeds as defined by the state law and all useless and troublesome plants as are commonly known as weeds to the general public.
 9. All weeds or growing grass upon any lot or parcel of land in the Town to the greater height of one foot or which have gone, or are about to go, to seed and are impacting adjacent properties in a negative way, are hereby declared to be a nuisance.
 10. Any accumulation of tin cans, bottles or trash or debris of any nature or description.
 11. The throwing, dumping or disposing of any dead animals, manure, garbage, waste, decaying matter, sand, stones, ashes, rubbish, cans or other material or debris of any kind on private property.
 12. Dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities.
 13. Offensive trades and businesses as defined by statute, code or ordinance and not licensed as provided by law.
 14. All public exposure of persons having a contagious disease.
 15. The distribution of samples or medicine or drugs unless such samples are placed in the hands of an adult person by a properly licensed person.
 16. All other acts, omission of acts, occupations and uses of property which are deemed by the Town Board or public health officer to be a menace to the health of the inhabitants of the Town or a considerable number thereof.
- B. The following are nuisances affecting public peace and safety:
1. All wires, cables or chains which are strung less than fifteen (15) feet above the surface of any public street or alley.
 2. All buildings, walls and other structures which have been damaged by fire, decay or otherwise as to an extent exceeding one-half of their original value or which are so situated so as to endanger the safety of the public.
 3. All explosives, inflammable liquids and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law or ordinance.
 4. All use or display of fireworks except as provided by law, code or ordinance.

5. All unnecessary noises and annoying vibrations.
6. All buildings and all alterations to buildings made or erected in violation of fire ordinances and building codes concerning manner and materials and constructions.
7. Obstructions and excavation affecting the ordinary use of the public streets, alleys, sidewalks or public grounds, except under such conditions as are provided by ordinance, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in such manner as to attract minor children.
8. Radio aerials strung or erected in any manner except that provided by law, code or ordinance.
9. The piling, storing or keeping of old inoperable machinery, wrecked, junked or inoperative vehicles and other junk or debris, unless stored or kept in a building on said premises.
10. The use of property abutting on a public street or sidewalk, or any use of a public street or sidewalk, which causes large crowds of people to gather, obstructing traffic and the free use of public streets or sidewalks.
11. All hanging signs, awnings and other similar structures over public streets or sidewalks or so situated as to endanger public safety, not constructed or maintained as provided by law or ordinance, or without proper permit.
12. The allowing of rain, water, ice or snow to fall from any building on any public street or sidewalk or to flow across any public sidewalk.
13. All dangerous, unguarded machinery, equipment or other property in any public place, or so situated or operated on private property so as to attract minor children.
14. Throwing, dropping or releasing printed matter, paper or any other material or objects over and upon the city from an airplane, balloon or other aircraft or in such a manner as to cause such materials to fall on land in the Town.
15. Placing entrance culverts or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys or sidewalks without proper permit.
16. Making repairs to motor vehicles or tires in public streets or alleys excepting only emergency repairs when it will not unduly impede or interfere with traffic.

17. Throwing, placing, depositing or burning leaves, trash, clippings, weeds, grass or other materials in the streets, alleys or gutters.
18. Erecting, painting or placing of unauthorized traffic signs or advertising signs in streets or alleys or on sidewalks.
19. All unnecessary interference and disturbance of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof.
20. Driving motorized scooters, bicycles, motorcycles, snowmobiles or any other type of motorized vehicle on any sidewalk, walkway or private property of others and the driving of said vehicles in a loud, noisy or unsafe manner.
21. To operate any private parking lot without keeping the same reasonably free from dust.
22. To operate any artificial lighting devices so as to cause a distraction to passing motorists or to operate said any artificial lighting devices without some effective device as may be needed as determined by the Town so as to protect adjacent premises from being adversely affected thereby.
23. The maintenance of any tree or shrub, the roots of which are causing damage to any public sewer, sidewalk, pavement or other property, or setting out or planting any tree or bush in the public street or any portion thereof.
24. All other conditions, acts or things which are liable to cause injury to the person or property of another.
25. All unnecessary noises which tend to disturb the peace and repose of neighboring property owners.
26. Any use of the public beach or public accesses within the Town after the hour of 10:00 PM.

Section 506.03: Enforcement

It shall be the duty of the Board of Supervisors of the Town to enforce this Article. The Board of Supervisors, may by Resolution, delegate to such other officers or agencies, power to enforce said provisions of this Article, including the power to inspect private premises and the officers charged with enforcement of said provisions of this Article shall take all reasonable precautions to prevent the commission and maintenance of nuisances.

Section 506.04: Abatement by Property Owner

Whenever in the judgment of the officer charged with enforcement, it is determined upon investigation that a nuisance is being maintained or exists within the Town, such officer shall

notify in writing the person committing or maintaining such nuisance and require him to terminate and abate said nuisance and to remove such conditions or remedy such defects. Said written notice shall be served upon the person committing or maintaining said nuisance in person or by certified mail. If the premises is not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Said notice shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time to abate and remove said nuisance, said steps and time to be designated in said notice, but the maximum time for the removal of said nuisance after service of said notice shall not, in any event, exceed thirty (30) days. Service of notice may be provided by filing an affidavit of service with the Zoning Administrator setting forth the manner and time thereof. When an order so given is not complied with, such noncompliance shall be reported to the Board of Supervisors for such action as may be necessary and deemed advisable in the name of the Town to abate and enjoin the further continuation of the nuisance.

Section 506.05: Abatement by Town

If, after such service of notice, pursuant to Section 505.04, the person fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the direction of the Board of Supervisors, the Board of Supervisors may cause such nuisance to be abated at the expense of the Town and recover such expenditure by civil action against the person or persons served, including Attorney's fees and costs. If service was upon the owner or occupant the Town Board may order the Clerk to extend such sum as a special tax against the property upon which the nuisance existed and to certify the same to the County Auditor of Washington County, Minnesota, for collection in the same manner as taxes and special assessments are certified and collected.

Section 506.06: Miscellaneous Nuisances

Radiation and Electrical Interference Prohibited. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except for domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such emissions are hereby declared to be a nuisance.

Section 506.07: Storage of Hazardous Materials

- A. Bulk Storage (Liquid). All uses associated with the bulk storage of over two thousand (2,000) gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall required a conditional use permit in order that the Zoning Administrator may have assurance that fire, explosion, water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, above-ground liquid storage tanks having a capacity in excess of two thousand (2,000) gallons shall secure a conditional use permit within twelve (12) months following enactment of this Article; the Zoning Administrator shall require the development of diking around said tanks, suitably sealed to hold a leakage

capacity equal to one hundred fifteen percent (115%) of the tank capacity. Any existing storage tank that, in the opinion of the Town Board, constitutes a hazard to the public safety shall discontinue operations within one (1) year following enactment of this Code.

- B. Explosives. No activities involving the commercial storage, use or manufacturing of materials or products which could decompose by detonation shall be permitted except such as are specifically permitted by the Town Board. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerine, blasting explosives such as dynamite and nuclear fuel and reactor elements such as uranium 235 and plutonium.

Section 506.08: Environmental Nuisances

- A. Adoption of Minnesota Rules Chapter 7010 and Minnesota Environmental Rights Law Minn. Stat. 116B. The Minnesota Pollution Control Agency Air Quality Division Noise Pollution Control regulations, Minnesota Rules Chapter 7010, and Minn. Stat. 116B, one copy of which is on file in the office of the Town Clerk, are hereby adopted by reference and are hereby incorporated in this Article as completely as if set out in full.
- B. Minnesota Statutes 116B.01. The Town of May hereby adopts Minn. Stat. 116B.01 as follows: The legislature finds and declares that each person is entitled by right to protection; preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof. The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony in order that present and future generations may enjoy clean air and water, productive land, and other natural resources with which this state has been endowed. Accordingly, it is in the public interest to provide an adequate civil remedy to protect air, water, land and other natural resources located within the state from pollution, impairment or destruction.
- C. Minnesota Statutes 116.B Subd. 4. The Town of May hereby adopted Minn. Stat. 116B Subd 4 as follows: Natural resources shall include, but not be limited to, all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational and historical resources. Scenic and esthetic resources shall also be considered natural resources when owned by any governmental unit or agency.
- D. No Odors, Vibration, etc. Permitted. No odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such sensory irritations or health hazards shall be permitted in any district in excess of the minimum standards as set forth in this section except legally permitted agricultural operations in the agricultural and

rural residential districts. Any violation of said standard is hereby declared a nuisance. The minimum standards shall be as follows:

1. Odors. Any use shall be so operated as to prevent the emission of odorous or solid matter of such quality and quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.
2. Vibration. The following vibrations are prohibited:
 - (a) Any vibration discernible (beyond the property line) to the human sense of feeling for three (3) minutes or more duration in any one (1) year.
 - (b) Any vibration resulting in any combination of amplitudes and frequencies beyond the "safe" range of the most current standards of the United States Bureau of Mines on any structure.

Section 506.09: Noise Control

- A. General Prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restriction of the following subdivisions.
- B. Noises Prohibited.
 1. Exhaust. No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
 2. Defective Vehicles or Loads. No person shall use any vehicle so out of repair or so loaded as to create loud unnecessary grating, grinding, rattling, or other noise.
 3. Loading, Unloading, Unpacking. No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.
 4. Radios, Audio Equipment, Paging Systems, etc. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, audio equipment, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, audio equipment, machine, or other device between

the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

5. Participation in Noisy Parties or Gatherings. No person shall participate in any party or other gathering of people giving rise to noise, disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
 6. Animals. (See Article 501: Animal Control)
- C. Noise Impact Statements. The Town Board may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise source to submit to a noise impact statement by an agency approved by the Town Board. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.
- D. Determining Excessive Sound. In determining whether a particular sound exceeds the maximum permissible sound level, the Town of May shall follow the Minnesota Pollution Control Agency Air Quality Division Noise Pollution Control regulations, Minnesota Rules Chapter 7010 and any amendments.
- E. Construction Equipment. Except as hereinafter provided, no pile driver, jackhammer, excavation equipment, or other heavy construction equipment shall be operated between the hours of 6:00 PM to 7:00 AM on weekdays and during any hours on Saturdays, Sundays and State and Federal holidays except under conditional use permit provided below and no such equipment shall be operated at any time if the sound level from such operation exceeds one hundred (100) decibels measured along any property line; provided however, that said decibel maximum sound limit is reduced to ninety-five (95) decibels effective the second anniversary of the enactment of this Ordinance, and ninety (90) decibels effective the fourth anniversary. (Amended by Ord. 2013-01, Effective July 6, 2013)

Construction equipment such as power saws, drills, nail guns, sanders and the like, and light utility equipment such as skid steers, utility tractors and fork lifts are not covered by this Subsection E, but rather are covered by Section 506.09.H, Outdoor Implements. (Amended by Ord. 2013-01, Effective July 6, 2013)

- F. Combustion Engines. No internal combustion engine or any other power unit when operated in connection with construction or demolition equipment shall be operated at any time other than at the times as set forth in this section. Any sound emitted from any such engine or power unit shall not exceed the eight-three (83) decibels measured along the property line.
- G. Emergencies. If an emergency situation exists or if substantial economic loss would result to any person unless allowed additional hours of equipment operation, a conditional use permit may be granted for extended hours of operation of such construction and internal combustion engine or power unit as follows:
1. In the event of an emergency situation, a permit may be granted for such operation during any hour of any day for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.
 2. In the event of a determination of substantial economic loss to a person, a conditional use permit may be granted for such operation throughout the hours of 7:00 a.m. to 9:30 p.m. on weekdays and throughout the hours of 1:00 p.m. to 5:00 p.m. on Saturdays, Sundays and State and Federal holidays upon the condition that while any construction equipment, internal combustion engine or power unit is in operation, its location shall not be less than six hundred (600) feet in any direction from any dwellings, except that if while any such construction equipment internal combustion engine or power unit is in operation, its location shall be no less than one thousand two hundred (1,200) feet in any direction from any dwelling, a permit may be granted for operation during any hour of any day.
- H. Outdoor Implements. Except as hereinafter provided, any power lawn mower, power hedge clipper, power saw or such other implement, designed primarily for outdoor use, shall be operated only between the hours off 7:30 AM to 9:00 PM on weekdays, or between the hours of 9:00 AM to 9:30 PM on Saturdays, Sundays and State and Federal holidays. (Amended by Ord. 2013-01, Effective July 6, 2013)
- I. Toxic or Noxious Matter. Any use shall be so operated as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
- J. Snow Removal Activity. Snow removal activity is exempt from the restriction of this Ordinance unless it exceeds Federal or State noise standards. (Amended by Ord. 2013-01, Effective July 6, 2013)

Section 506.10: Environmental Pollution; Pollution Control Agency Requirements

- A. Conformance to Regulations of Minnesota Pollution Control Agency. All uses, buildings and structures shall conform to the regulations of the Minnesota Pollution Control Agency relating to air, water, noise and solid waste.
- B. Tributary Pollution. No use shall be permitted which will cause or result in the pollution of any tributary to the St. Croix River, any lake, stream or other body of water in the community.
- C. Chemical Insecticides Regulations. Chemical insecticides or herbicides shall be stored, handled and utilized as per the standards set forth by the Minnesota Pollution Control Agency.
- D. Minimum standards. Notwithstanding anything contained herein to contrary the minimum standards of the Pollution Control Agency as to noise, air and water pollution, glare, shall be the minimum standards for purposes of this section.

Section 506.11: Penalties

Any person who shall cause or create a nuisance or permit any nuisance to be created or placed upon or to remain upon any premises owned or occupied by him, and any person who shall fail to comply with any order made under the provisions of this Article, upon conviction thereof, shall be guilty of a misdemeanor and punishable by a fine not exceeding seven hundred dollars (\$700) or imprisonment for a term not exceeding ninety (90) days or by both such fine and imprisonment in the discretion of the court, plus, in either case the costs of prosecution. Each act of violation and each day a violation occurs or continues, constitutes a separate offense.

ARTICLE 507: REFUSE REMOVAL

Section 507.01: Definitions

As used in this Article the following words shall have the following meanings:

- (1) Mixed Municipal Solid Waste (MSW). MSW means, garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Section 507.02: Accumulation Prohibited

It shall be unlawful for any person to dispose of garbage and rubbish in an unsanitary manner, which may be on or may accumulate upon property owned or occupied by the person.

Section 507.03: Container Required

Every person who owns or occupies any property where garbage is accumulated who does not otherwise dispose of such garbage in a sanitary manner shall provide himself with one or more fly-tight containers sufficient to receive all garbage which may accumulate between the times for collection. Each container shall have a tight-fitting cover and be so anchored or fastened such that it cannot easily be accidentally tipped over.

Section 507.04: Storage

All MSW accumulated between the times of collection shall be deposited in the containers provided in Section 507.03 and all such MSW shall be stored in a nuisance free, pollution free and aesthetic manner.

ARTICLE 508: RECYCLING

Section 508.01: Definitions

- (1) Aluminum Recyclables. Disposable containers fabricated primarily of aluminum and commonly used for soda, beer or other beverages.
- (2) Can Recyclables. All disposable food and beverage containers fabricated primarily of steel or tin.
- (3) Collection. Aggregation of recyclable materials from the place at which it is generated and includes all activities up to the time when waste is delivered to a recycling facility.
- (4) Corrugated Cardboard. Heavy paper with alternating ridges and grooves for use in packing or boxing materials.
- (5) Dwelling Unit. A residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.
- (6) Glass Recyclables. Jars, bottles, and containers which are primarily used for packaging and bottling of food or beverage items.
- (7) Institution. Public and private schools, churches, daycare facilities and similar establishments.
- (8) Mixed Municipal Solid Waste (MSW). Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregate for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.
- (9) Paper Recyclables. Newsprint and office paper but does not include magazines or similar periodicals.
- (10) Plastic Recyclables. Plastic bottles with narrow necks coded with a #1 (PETE) or #2 (HDPE) on the bottom.
- (11) Recycling. The process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

- (12) Recycling Facility. An organization or business that collects recyclable materials in aggregate for the purpose of processing or preparing such materials for market.
- (13) Recyclable Materials. Materials that are separated from refuse for the purpose of recycling and includes aluminum recyclables, can recyclables, corrugated cardboard, glass recyclables, paper recyclables and plastic recyclables.
- (14) Separation or To Separate. To place and store sorted recyclable materials in containers.
- (15) Single Family Dwelling. A residential building containing one dwelling unit including detached, semi-detached and attached dwellings.

Section 508.02: Separation and Collection of Recyclable Materials from Residential Dwelling Units

It shall be the duty of every owner or occupant of a residential dwelling unit having recyclable materials which accumulate on the premises to separate recyclable materials from MSW and set the recyclable materials out for collection in a manner that is designated by the Town.

The Town shall insure that a service is available for the collection of recyclable materials from all residential dwelling units. The Town shall provide owners and occupants of residential dwelling units with information regarding authorized recycling procedures. As an alternative, owners and occupants of residential dwelling units may take recyclable materials to a recycling facility approved by the Town.

Section 508.03: Separation and Collection of Recyclable Materials by Users of Institutional Property

It shall be the duty of each owner and occupant of commercial and institutional property having recyclable materials which accumulate on the premises to separate recyclable materials from MSW and provide for the collection of recyclable materials in accordance with the procedures established by the Town.

Section 508.04: Violation and Penalty

- A. Civil Penalty. A violation of any provision of Article 508 shall result in a penalty for each owner or occupant. A violator shall be given a written warning for the initial violation. A civil penalty shall be imposed for each subsequent violation.
- B. Penalties that remain unpaid for more than 30 days shall certified to the County Auditor and collected in the same manner as taxes and/or special assessments against the premises and may be subject to a civil action initiated by the Town.

ARTICLE 509: WASTEWATER SERVICE CHARGE "201"

Section 509.01: Short Title

This Article of the Code shall be known, cited and referred to as the Wastewater Services Charge, except as referred to herein, where it shall be known as, "this Article".

Section 509.02: Intent and Purpose

- A. Setting Forth Requirements. Setting forth the requirements for accruing revenues to enable the Town of May to comply with State and Federal laws and to provide sufficient revenues to financially balance expenditures for the maintenance of those community sewage treatment systems within the Town of May constructed with Federal and State grant funds.
- B. Assessing Users. Assessing those users of the community sewage treatment systems within the Town of May which are constructed with Federal and State grant funds, user charges based on the user's proportionate contribution to the total wastewater loading from all users.

Section 509.03: Rules and Definitions

- A. Rules.
 - 1. In the event of conflicting provisions in the text of this Article, and/or other Articles of the Code, the more restrictive provisions shall apply. The Town Board shall determine which is more "restrictive".
 - 2. Words used in the present tense shall include the past and future tense; the singular includes the plural and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.
- B. Definitions. For the purpose of this Article, certain terms, words and phrases are hereby defined as follows:
 - (1) Administrative Costs. Those fixed costs attributed to administration of the wastewater treatment works, including but not limited to; billing, bookkeeping and accounting functions.
 - (2) Biochemical Oxygen Demand (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days to 20 degrees Celsius, expressed in milligrams per liter.
 - (3) Community Sewage Treatment System. A sewage treatment system which collects sewage from two or more residences or other establishments,

consisting of: collector lines, pumps, sewage tanks, and soil treatment unit. Also known as a cluster system.

- (4) Commercial User. Any place of business which discharges sanitary wastes as distinct from industrial wastewater.
- (5) County. The area within the boundaries of Washington County. The term "County" when used herein may also be used to refer to the County Board and its authorized representatives.
- (6) Equivalent Residential Unit (ERU). A unit of wastewater volume of 225 gallons per day and a theoretical strength of 200 mg/l of BOD and 225 mg/l of total suspended solids.
- (7) Extra Strength Waste. Wastewater having a BOD and/or suspended solids greater than Normal Domestic Strength Waste as defined in 15 below, and not otherwise classified as an incompatible waste.
- (8) Governmental User. Users which are agencies or instrumentalities of federal, state, or local government discharging Normal Domestic Strength Wastewater.
- (9) Incompatible Waste. Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in the receiving waters of the wastewater treatment works.
- (10) Individual Sewage Treatment System. A sewage treatment system connecting to a single dwelling or other establishment, consisting of: soil treatment unit, sewage tanks, and associated systems.
- (11) Industrial Wastewater. The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Division A, B, D, E and I manufacturers as distinct from domestic wastewater.
- (12) Institutional User. Users which are social, charitable, religious, and educational organizations and agencies such as: schools, churches, hospitals, nursing homes, penal institutions.
- (13) Monitoring and Inspection Costs. Expenditures for monitoring and inspecting wastewater systems which are operated and maintained according to passive maintenance.

- (14) Normal Domestic Strength Wastewater. Wastewater that is primarily produced by residential users, with BOD5 concentrations of approximately 200 mg/1 and suspended solids concentrations of approximately 225 mg/1.
- (15) Operation and Maintenance Costs. Expenditures for activities required to provide for the dependable and economical functioning of the treatment works, throughout the useful life of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and Maintenance includes, but is not limited to: monitoring and inspection of systems, septic tank pumping, and administration. Operation and maintenance also includes replacement.
- (16) Replacement Costs. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the design or useful life, whichever is longer, of the wastewater treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed.
- (17) Residential User. The users of structures which are residential in nature and distinct from industrial, commercial, or institutional users. For the purposes of this Article, residential waste shall be considered to have the following: BOD5 <200 mg/1, suspended solids 225 mg/1.
- (18) Suspended Solids. Solids that are filterable and in suspension in the liquid; the quantity being determined by the filterable residue test as described in "Standard Methods for the Examination of Water and Wastewater".
- (19) User charge, also known as Wastewater Service Charge. Charges to users of wastewater treatment facilities for the costs of operation and maintenance, replacement, monitoring and inspection, septic tank pumping and administration.
- (20) User Charge System, also known as Wastewater Service Charge System. A system based on estimated use of wastewater treatment service where each user (or user class) pays its proportionate share of operation and maintenance and replacement costs of treatment works within the grantee's service area, based on the user's proportionate contribution to the total wastewater loading from all user's (or user classes). To insure a proportional distribution of operation and maintenance costs to each user (or user class), the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.
- (21) Users. Those residential, institutional, commercial, and industrial establishments which are connected to the public sewer collection system.

- (22) Wastewater. The spent water of a user. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial and industrial buildings, and institutions, together with any groundwater, surface water, and stormwater that may be present.
- (23) Wastewater Service Charge, also known as User Charge. Charges to users of wastewater treatment facilities for the costs of operation, maintenance and replacement, monitoring and inspection, septic tank pumping and administration.
- (24) Wastewater Treatment Facilities. An arrangement of Services and structures use for treating wastewater which have been constructed with State and Federal grants.

Section 509.04: Regulations

A. Wastewater Service Charge System.

- 1. Establishment of Wastewater Service Charge System. The Town of May hereby establishes a Wastewater Service Charge System whereby revenue collected from users of the wastewater treatment facilities will be used to offset all expenditures incurred for administration, annual operation and maintenance, equipment replacement.
- 2. User of "201" Facilities. Users of the "201" wastewater facilities of the Town shall be classified into one of the following categories:
 - (a) Permanent User.
 - (b) Seasonal User.
- 3. Wastewater charges will be established based on Equivalent Residential Units (ERU). One ERU is defined as a unit of wastewater volume of 225 gallons per day with a theoretical waste strength of 200 mg/1 of BOD and 225 mg/1 of total suspended solids. The assignment of ERUs will be made by the Town. Seasonal units will have a value of sixty percent (60%) of an equivalent year round unit.
 - (a) Equivalent Residential Units at a volume of 225 gallons per day Normal Domestic Strength Wastewater will be assigned by the Town according to the following table:

| <u>No of Bedrooms</u> | <u>Sewage Flows in gal. per day</u> | <u>ERUs</u> |
|-----------------------|---|-------------|
| 1-2 | 225 | 1.0 |
| 3 | 300 | 1.3 |
| 4 | 375 | 1.7 |
| 5 | 450 | 2.0 |
| 6 | 525 | 2.3 |
| 7 | 600 | 2.7 |

Non-residential users shall be assigned ERUs according to ESTIMATES OF COMMERCIAL, INSTITUTIONAL, INDUSTRIAL AND RECREATIONAL WASTEWATER FLOWS as printed in the On-Site Sewage Treatment Manual, which is printed annually by the University of Minnesota Agricultural Extension Service and the Minnesota Pollution Control Agency.

- (b) Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, water meters of a type approved by the Town. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's property.
 - (c) The Town may, at its discretion require non-residential users to install water meters for the purpose of determining wastewater volume. The Town may require residential connections to install water meters as part of a comprehensive program to install meters throughout the Town's water system. When so required, such meters shall be of a type approved by the Town and equipped with remote registering recorders, and located at an accessible site on the owner's property.
4. In accordance with Federal and State requirements, each user will be notified annually at the beginning of each calendar year of the User Charge Rates attributed to wastewater treatment services.
 5. In accordance with Federal and State requirements, the Town Clerk will be responsible for maintaining all records necessary to document compliance with the Wastewater Service Charge System adopted.

Section 509.05: Determination of Wastewater Service Charge

- A. Recovery of Costs. It is the intent of this Article that the wastewater service charges shall cover the costs of operating and maintaining the wastewater systems, and that costs are recovered from all users in a proportionate manner. The Town shall maintain a proper system of accounts suitable for determining the operation and

maintenance and equipment replacement costs of the collection and treatment facilities. These costs shall be reviewed at regular annual intervals. The Town shall determine whether or not sufficient revenue is being generated for the effective operation and maintenance and management of the wastewater system, and that user charges are being distributed proportionately to all users. Any inequities and/or shortages shall be corrected by adjusting the rates accordingly by resolution of the Town.

- B. Determination of User Charge. All users shall be charged an annual wastewater service charge in accordance with the methodology described below:

$$Cs/ERU = \frac{Com + Cr}{No. \text{ of ERUs}}$$

Where Cs = Wastewater Service Charge per year

Com = Operation and Maintenance Charge per year

Cr = Equipment Replacement Charge per year

- C. Annual Fees and Payments. All users of the wastewater treatment facilities shall be charged annually for sewer service based on the number of equivalent residential units assigned to each and based on whether the unit is seasonal or year round. Payment shall be rendered in full within 30 days of the billing date.
- D. Septic Tank Effluent Pumping Surcharge. An additional fee shall be charged to users of the community sewage treatment system who, for whatever reason, require septic tank pumping more frequently than once in two years. The surcharge for such frequent pumping shall be at the same rate, either per tank or per gallon, as established by contract for the routine pumping of each septic tank on the community sewage treatment system.
- E. Fees for Unusual Wastes. If a user discharges toxic pollutants or wastes of unusual strength or character to the treatment facilities which cause or increase the operation and maintenance costs, he/she shall be ordered either to install pretreatment facilities or pay for the extra costs of treating the wastes. This decision will be made by the Town, at the time the user begins to discharge extra strength wastes.
- F. Toxic or Incompatible Waste Clean-up. Any additional costs caused by discharges to the treatment works of toxic or other incompatible wastes, including the costs of restoring wastewater treatment services, clean-up and restoration of ground and surface water and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the Town.
- G. Establishment of Special Accounts. The Town hereby establishes a Wastewater Service Fund into which all revenue collected from users will be deposited for disbursements into the general operating fund and the replacement fund. For the purpose of community and cost accounting records, these funds are designated as an

income account. Revenue sufficient to insure adequate replacement shall be held in the replacement fund separate from the operation and maintenance fund. Separate accounting shall insure the integrity of these funds and that interest accrues proportionately to each fund.

Section 509.06: Administration

- A. Applicability.
 - 1. This Article of the Code shall apply and be in effect for the stated purposes within the "201" study areas in the Town of May.
 - 2. Enforcement.
 - (a) The Town Clerk shall be responsible for administration and enforcement of this Article of the Code.
 - (b) The Clerk or their agent shall be qualified and certified by the MPCA as competent in the design, evaluation and inspection of individual on-site sewage treatment systems, and shall carry a current Individual Sewage Treatment System Certificate and a current Class D operators certificate.
 - 3. Appeals and Variances.
 - (a) The Town Board shall hear and decide appeals and review any order, decision or determination made by the Clerk regarding the enforcement of this Article of the Code.
 - (b) The Board of Adjustment & Appeals shall hear and act upon all rate adjustment and variance requests.
 - (c) Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by a decision.

Section 509.07: Enforcement

- A. Violations and Penalties.
 - 1. Any bill not paid four (4) weeks after date of billing shall be declared delinquent and a past-due notice shall be issued to the billed party. The past-due notice shall contain an additional charge to cover the costs of the rebilling. Additional delinquent notices including their respective charges shall be sent at eight (8) and twelve (12) weeks after the billing date. Should a bill still be

delinquent after one hundred twenty (120) days, the Town may elect to take the following actions:

- (a) Delinquent Bills. Whenever wastewater service charge bills become delinquent, the amount due shall be certified to the County Auditor for inclusion with the following year's tax statement.
- (b) Lien. Whenever wastewater treatment bills become delinquent, the same shall become and constitute a lien upon the real estate to which sewer service is supplied. Statements rendered for such charge shall be deemed notice to all parties, whether or not the person charged with the statement is the owner of the property served. The claim for lien shall be made in the form of a sworn statement setting forth:
 - (i) A description of the real estate, sufficient for the identification thereof, upon or for which the sewage service was supplied;
 - (ii) The amount of money due for such sewage service; and
 - (iii) The date or dates when such amount or amounts became delinquent.

If all amounts shown due remain unpaid after recording as provided by state statutes, the Town may foreclose the lien in the same manner and with the same effect as the foreclosing or mortgages on real estate.

- (c) Civil Action. In the alternative of levying a lien, the Town may, at its discretion, file suits in a civil action to collect such amounts as are delinquent and due against the occupant or user of the real estate and shall collect, as well, all attorney's fees incurred by the Town in filing the civil action. Such attorney's fees shall be fixed by order of the court.
2. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being served by the treatment works shall be liable for interest upon all unpaid balances at the rate of twelve percent (12%) per annum.
 3. The Town reserves the right to revoke discharge permits and to disconnect service to any user whenever wastewater treatment becomes delinquent.

**ARTICLE 510: WASTEWATER (SEWER) SYSTEMS;
OPERATION AND MAINTENANCE**

(Adopted Ord. 2014-07, Effective March 20, 2015)

Section 510.01: Short Title

This Ordinance shall be known, cited and referred to as the Wastewater (Sewer) Systems; Operation and Maintenance Ordinance, except as referred to herein, where it shall be known as "this Ordinance."

Section 510.02: Intent and Purpose

This Ordinance is adopted for the purpose of:

- A. Protecting the health, safety, and welfare of the residents of the community, present and future in accordance with the community's State Disposal System, and where applicable, National Pollutant Discharge Elimination System Permit.
- B. Regulating the discharge of wastes into soil treatment units and associated collection systems which would have an adverse effect on the operation and maintenance of the wastewater treatment facilities.
- C. Establishing programs by which community sewage treatment systems and individual sewage treatment systems are maintained.

Section 510.03: Rules and Definitions

- A. In the event of conflicting provisions in the text of this Ordinance, and/or ordinances, the more restrictive provision shall apply. The Zoning Administrator shall determine which is more "restrictive" and appeals from such determination shall be made in the manner provided herein. Words used in the present tense shall include the past and future tense; the singular includes the plural and the plural includes the singular. The word "shall" is mandatory, and the word "may" is permissive.
- B. Definitions. For the purpose of this Ordinance, certain terms, words and phrases are hereby defined as follows:
 - 1. Active Maintenance. A maintenance program for individual sewage treatment systems whereby the property owner has complete responsibility for effecting operation, maintenance and replacement (OM&R) in a manner acceptable to the Sewer Authority.
 - 2. BOD. Biochemical Oxygen Demand shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Celsius expressed in

milligrams per liter. Laboratory procedures shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

3. Building Drain. That part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer which begins at least one foot outside the building line.
4. Building Sewer. That part of the drainage system which extends from the building drain and conveys its discharge to either a public sewer, a sewage tank, pumping chamber; or an individual sewage treatment system.
5. Community Sewage Treatment System. A sewage treatment system which collects sewage from two or more residents or other establishments, consisting of: collector lines, pumps, sewage tanks, and soil treatment unit. Also known as a cluster system or a collector system.
6. County. The area within the boundaries of Washington County. The term "County" when used herein may also be used to refer to the County Board and its authorized representatives.
7. Easement. A legal transfer of rights, privileges or uses of private property.
8. Garbage. Solid waste resulting from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, or sale of meat, fish, fowl, fruit, or vegetables and condemned food.
9. Individual Sewage Treatment System. A sewage system connecting to a single dwelling or other establishment, consisting of: soil treatment unit, sewage tanks, and associated systems.
10. Industrial Wastes. The solid, liquid, or gaseous waste resulting from industrial manufacturing processes, trade or business, or from the development, recovery or processing of natural resources.
11. Industry. Any non-governmental or non-residential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, categorized in Divisions A, B, D, E, and I.
12. NPDES Permit. National Pollutant Discharge Elimination System Permit means the system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans by the Environmental Protection Agency

pursuant to the Federal Water Pollution Control Act of 1972, Sections 402 and 405.

13. Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
14. Normal Domestic Strength Wastes. Wastes which are characterized by a per capita discharge of 75 gallons per day at a loading of 200 mg. per liter (BOD), biological oxygen demand and 225 mg. per liter (TSS) total suspended solids.
15. Operation and Maintenance. Activities required to provide for the dependable and economical functioning of the treatment system, throughout the useful life of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and maintenance includes replacement.
16. Other Wastes. Garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil tar, chemicals, offal, and all other substances except sewage or industrial waste.
17. Passive Maintenance. A maintenance program for community sewage treatment systems whereby the unincorporated community in which the treatment system is situated is responsible for conducting Operation Maintenance and Replacement in a manner acceptable to the Sewer Authority.
18. Person. Any individual, firm, company, association, society, corporation, municipal corporation, governmental unit, or group.
19. pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
20. Public Sewage Treatment System. Any sewage treatment system owned or operated by a unit or agency of government.
21. Replacement. The obtaining and installing of equipment accessories or appurtenances which are necessary during the useful life of the wastewater treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed. The term operation and maintenance includes replacement.
22. Sanitary Sewer. A sewer which carries sewage and to which storm, surface, and groundwater are not intentionally discharged.
23. Sanitary Waste. The liquid and water carried wastes discharged from sanitary plumbing facilities.

24. Septage. The solids and liquids removed during periodic maintenance of sewage tanks including holding tanks.
25. Sewage or Wastewater. The water carried waste products from residences, commercial buildings, public buildings, institutions, industrial establishments or other buildings including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground, surface, and storm waters as may be present.
26. Sewer. A pipe or conduit for carrying sewage, industrial wastes or other waste liquids.
27. Sewer Authority. The governmental entity and department thereof which has permitting and enforcement authority over sanitary improvements. The Zoning Administrator is the Sewer Authority in the Town of May. The Zoning Administrator shall be responsible to insure that all the provisions of this ordinance are complied with through routine monitoring, inspection and other appropriate means.
28. Sewer System. Pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage, industrial wastes or other wastes to a point of ultimate disposal.
29. Slug. Any discharge of water, wastewater or industrial waste which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation.
30. State Disposal System (SDS) Permit. Any permit including any terms, conditions and requirements thereof issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.
31. Suspended Solids. Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.
32. Town. The Town of May, the Town Board, and its authorized representatives.
33. Toxic Pollutant. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will

cause adverse effects as defined in standards pursuant to Section 307(a) of the Clean Water Act.

34. Unpolluted Water. Clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclear or noxious or impure so as to be actually or potentially harmful or detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial or recreational uses; or to livestock, wild animals birds, fish, or other aquatic life.
35. Wastewater Facility. The structures, equipment, or processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Section 510.04: Use of Public Sewage Treatment Systems – General Requirements

- A. Unlawful Surface Discharge. It shall be unlawful for any person to connect a building sewer to any public sewer without first obtaining a permit from the Sewer Authority.
- B. Unlawful Connection to Public Sewage Treatment Systems. It shall be unlawful for any person to connect a building sewer to any public sewer without first obtaining a permit from the Sewer Authority. The Sewer Authority shall permit new connections and flow increases only if there is additional available capacity in the particular public sewage treatment system being considered. No new construction will be permitted to connect for a minimum of three years following startup of each public sewage treatment system. This moratorium is necessary to allow the Authority time to establish a base flow rate and a minimum reserve capacity for each public sewer.
- C. Unlawful increase in discharge to Public Sewage Treatment System. No new construction or expansion of an existing structure resulting in more habitable space being created shall be allowed unless there is additional available capacity in the particular system being considered, and the minimum requirements contained in Section 405 of the Washington County Shoreland Ordinance are met. Existing homes not presently served by this system may be allowed to connect to a 201 collector system if it can be shown that the existing on-site sewage treatment system is inadequate. Such additions as garages, decks, new foundations, and bathroom additions are considered nonhabitable space, therefore, not affecting the flow rate. Nonhabitable spaces are subject to all other zoning and shoreland restrictions.
- D. Lawful Connections to Public Sewers. New connections may be allowed, with a Sewer Authority Permit, according to the following conditions:
 1. Where an existing on-site septic system is failing and where the property in question has frontage on the public sewer, a new connection may be permitted if capacity is available in all components of the public sewer.

2. New connections shall be constructed according to the specifications of the Sewer Authority's Permit for said connection. The permit conditions for new building sewer connections to public sewage treatment systems shall be as follows:
 - a. Applications for permits shall be made by the owner or authorized agent and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.
 - b. Applications shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the Sewer Authority. The applicant, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity.
 - c. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the community and the Sewer Authority from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.
 - d. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. Neither the community nor the Sewer Authority will assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.
 - e. Existing building sewer may be used in connection with new buildings only when they are found, on examination and test by the Sewer Authority, to meet all requirements of this Ordinance.
 - f. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the Sewer Authority. In the absence of code provisions or in the amplification thereof, the

materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9, shall apply.

g. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. The property owner shall provide and maintain such lifting mechanism as required at no expense to the community.

3. The fee for new connections shall be established by the sewer system owner from time to time.

E. Unlawful Discharge to Public Sewers. No person shall discharge or cause to be discharged directly or indirectly any waste which, by volume or strength or nature, may harm the wastewater treatment facility or cause obstruction to the free flow in sewers or endanger health or life or cause a nuisance.

1. No person shall discharge or cause to be discharged directly or indirectly any storm water, groundwater, roof runoff, subsurface drainage, waste from on-site disposal systems, unpolluted cooling or processing water to any sanitary sewer except as permitted by the Sewer Authority.

2. Stormwater and all other unpolluted water shall be discharged to a storm sewer if available or to the ground surface, except that unpolluted cooling or processing water may be discharged to a storm sewer or natural outlet on approval and issuance of a discharge permit by the MPCA.

3. No person shall discharge or cause to be discharged, directly or indirectly to any treatment system, the following substances:

a. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

b. Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the wastewater treatment works.

- c. Any water or waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and people.
 - d. Solid or viscous substances, either whole or ground, in quantities or of such size capable of causing obstruction to the flow in the sewers, or other interference with the proper continuation of the wastewater facilities such as, but not limited to, ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, sanitary napkins, paper dishes, cups, milk containers, and other paper products.
 - e. Noxious or malodorous liquids, gases, or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to health or life or are sufficient to prevent entry into the sewers for their maintenance or repairs.
 - f. Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, including wastes which may adversely affect the permeability of soils, such as dairy products and blood.
4. No person shall discharge or cause to be discharged directly or indirectly the following described substances to any public sewers unless in the opinion of the Sewer Authority such discharge will not harm the wastewater facilities, nor cause obstruction to free flow in sewers, nor otherwise endanger life, limb, or public property nor constitute a nuisance. In forming its opinion as to the acceptability of the wastes, the Sewer Authority may give consideration to such factors as the materials or construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment facilities, the County's SDS permit, and other pertinent factors. The Sewer Authority may make such determination either on a general basis or as to discharges from individual users or specific discharges, and may prohibit certain discharges from individual users because of unusual concentrations or combinations which may occur. The substances prohibited are:
- a. Any liquid or vapor having a temperature in excess of one hundred fifty (150) degrees F. (Sixty-five (65) degrees C.)
 - b. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at

temperatures between thirty-two (32) and one hundred fifty (150) degrees F. (Zero (0) and sixty-five (65) degrees C.)

- c. Any garbage that has not been ground or comminuted to such degree that all particles will be carried freely in suspension under flows normally prevailing in the public sewers, with no particles greater than one-half (1/2) inch in any dimension.
- d. Any water or wastes containing strong acid, iron, pickling wastes, or concentrated plating solutions, whether neutralized or not.
- e. Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment, or personnel of the sewage works, or which interfere with the treatment required to meet the requirements of the State or Federal Government, or any other public agency with proper authority to regulate the discharge from the sewage treatment plant.
- f. Any radioactive wastes or isotopes of such half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the treatment works or personnel operating it.
- g. Any water or wastes having a pH in excess of 9.5.
- h. Materials which exert or cause:
 - (1) Unusual concentrations of suspended solids, (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (3) Unusual BOD or chemical oxygen demand in such quantities as to constitute a significant load on the wastewater treatment facilities.
 - (4) Unusual volume of flow or concentration of waste constituting a slug.

F. Pretreatment, Control and Refusal of Extraordinary Wastes.

1. If any water or wastes are discharged, or are proposed to be discharged directly or indirectly to the public sewers, which water or wastes do not meet the standards set out in or promulgated under this Subsection, or which in the judgment of the Sewer Authority may have a deleterious effect upon the treatment facilities, processes, equipment, or receiving waters or which otherwise create a hazard to health or life, or constitute a public nuisance, the Sewer Authority may take all or any of the following steps:
 - a. Refuse to accept the discharges.
 - b. Require control over the quantities and rates of discharge.
 - c. Require pretreatment to an acceptable condition for the discharge to the public sewers.
 - d. Require payment to cover the added cost of handling or treating the wastes.

2. The design and installation of a plant or equipment for pretreatment or equalization of flows shall be subject to the review and approval of the Sewer Authority, and subject to the requirements of 40 CFR 403, entitled "Pretreatment Standards", and the Minnesota Pollution Control Agency.
 - a. Grease, oil, and mud interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subdivision 510.04.E.4.b of this Ordinance, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Sewer Authority and shall be located as to be readily and easily accessible for cleaning and inspection.
 - b. Where preliminary treatment, flow equalization, or interceptors are required for any water or waste, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at his expense and shall be available for inspection by the Sewer Authority at all reasonable times.
 - c. When required by the Sewer Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure and equipment, when required, shall be constructed at the owner's expense

in accordance with plans approved by the Sewer Authority and shall be maintained by the owner so as to be safe and accessible at all times.

- d. All measurements, tests, and analysis of the characteristics of water and waste to which reference is made in this Ordinance shall be determined in accordance with 40 CFR 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants"; the latest edition of Standard Methods for the Examination of Water and Wastewater and shall be determined at the control structure provided, or upon suitable samples taken at said control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effect upon the treatment works and to determine the existence of hazards to life, health and property. Sampling methods location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Sewer Authority.
- e. The owner of any property serviced by a building sewer carrying industrial wastes shall, at the discretion of the Sewer Authority, be required to provide laboratory measurements, tests, and analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the Sewer Authority or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the Sewer Authority. The owner must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall bear the expense of all measurements, analyses and reporting required by the Sewer Authority. At such times as deemed necessary the Sewer Authority reserves the right to take measurements and samples for analysis by an outside laboratory.
- f. New connections to the sanitary sewer system shall be prohibited unless sufficient flow capacity is available in all downstream facilities.
- g. No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the Sewer Authority and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Sewer Authority for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the

County's NPDES and/or State Disposal System Permit limitations are not violated.

Section 510.05: Use of Individual Sewage Treatment Systems

- A. Mandatory Sewage Treatment. Where a public sanitary sewer is not available under the provisions of Section 510.04, the building sewer shall be connected to an individual sewage treatment system complying with the rules and regulations of the Washington County Individual Sewage Treatment System Ordinance. The owner of a privately owned individual treatment system shall be responsible for all operation and maintenance, and other costs associated with the system.
- B. New Installation. No new private sewer systems or sewer system extensions shall be constructed within the jurisdiction of the Sewer Authority without first obtaining a permit for said system or expansion from the Sewer Authority.
- C. Unlawful Discharge to Individual Treatment System. It shall be unlawful to discharge such wastes as are prohibited by Section 510.04.E of this Ordinance to an individual sewage treatment system.

Section 510.06: Maintenance

- A. Mandatory. All sanitary improvements constructed, in whole or in part, with state and federal "201" grant assistance shall be maintained according to the provisions of either the Passive or Active Maintenance Program.
- B. Passive Maintenance Program. All properties which are connected to a sanitary sewer improvement which serves two or more properties (Refer to Section 510.03.B.5 Community Sewage Treatment System and 510.03.B.17 Passive Maintenance) and which is constructed in whole or in part with state and federal "201" grant assistance shall be required to participate and comply with the provisions of the passive maintenance program.
 - 1. Via this maintenance program the community in which the sewage treatment system is situated, the sewer system owner, shall be responsible for operation, maintenance and replacement of all publicly owned components of the community sewage treatment system.
 - a. Public ownership shall include all components of a collector system which are purchased and constructed, in whole or in part, with state and federal grant assistance. Unless otherwise prescribed, public ownership shall begin at the end of the building sewer and shall include all components to and including the soil treatment unit and the land it is constructed on.

- b. The sewer system owner shall be responsible for complete operation, maintenance and replacement including: inspections, tank pumping, sewer line repair and cleaning, pump maintenance, and operation, maintenance and monitoring of the soil treatment system.
 - c. The sewer system owner shall be responsible for establishing a sewer user charge system to support the operation, maintenance and replacement requirements.
 - 2. Property owners shall be responsible for operation and maintenance of all plumbing lines and components that lie within the walls of the structure. It is also the property owners responsibility to maintain the building sewer which extends from the building to the sewage tank, pump chamber or public sewer. The property owner shall also be responsible for paying the cost of electricity for operating the effluent pump for his sanitary improvement.
 - a. The property owner shall be responsible for maintaining the ground surface on his property which overlies the sewer system.
 - b. The property owner has the primary responsibility for informing the sewer system owner of any sewage system problems.
 - c. Each property owner shall make timely payments of the user charges established by the sewer system owner.
 - d. The owner or occupant of a property shall be responsible to provide access, at reasonable times, to the sewer system owner or its agents, for the purpose of performing inspection and operation, maintenance and replacement required under this Ordinance.
- C. Active Maintenance Program. Each individual on-site sewage treatment system which is constructed or improved, in whole or in part, with state and federal "201" grant assistance shall be operated and maintained according to the provisions of this section.
 - 1. Responsibility for proper operation, maintenance and replacement of individual sewage treatment systems shall be as follows:
 - a. The owner of each dwelling unit or other establishment served by an individual sewage treatment system shall be responsible for the proper functioning and operation, maintenance and replacement of the system.
 - b. The Sewer Authority shall be responsible to insure, through a return mail reporting system, through routine periodic monitoring,

investigation of complaints, and other appropriate means, that corrective action is ordered to protect the health, safety and welfare of the community in the event that the responsible owner is negligent or fails to take action as required by this Ordinance and by the applicable NPDES /SDS permit(s).

- c. When it has been determined that maintenance and replacement is necessary on an individual sewage treatment system (apart from Septic Tank Pumping addressed below), such maintenance and replacement shall be accomplished in a manner acceptable to the Sewer Authority. Replacement parts, equipment, and appurtenances shall be of a design and quality acceptable to the Sewer Authority and shall be installed in a manner acceptable to the Sewer Authority and in conformance with requirements of State of Minnesota Rule 7080 "Individual Sewage Treatment Systems Standards". In the absence of code provisions or in the amplification thereof, materials and procedures shall be as set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9.
2. Maintenance inspections shall be performed annually by the owner. It must also be performed every three years by a certified and licensed professional inspector, soil tester or installer who shall report such inspection and/or maintenance effort to the Sewer Authority. Such inspection shall include, but is not limited to:
 - a. Measurement of accumulated sludge and scum in the septic tank.
 - b. Inspection of effluent levels in soil treatment systems which are provided with inspection wells.
 - c. Inspection of pumps and pump stations when included as part of the system.
 - d. Inspection of distribution devices, valve boxes and drop boxes.
3. Whenever inspection of the septic tank discloses that the accumulated sludge in the bottom of the tank has reached a point twelve (12) inches or less from the bottom of the outlet baffle device, or that the bottom of the floating scum layer is less than three (3) inches above the bottom of the outlet baffle device, the owner shall have the tank promptly pumped to remove all accumulated septage. Where a conforming septic tank serving a dwelling is regularly pumped at least once every three years, the professional inspection of sludge and scum accumulation is waived.

- D. Septage Management. Whenever inspection of pump stations, distribution devices, valve or drop boxes, either on the passive or the active maintenance program, indicates the accumulation of solids, such device shall be promptly cleaned.
1. Pumping of sewage tanks and other components of sewage treatment systems shall be performed only by contractors licensed by Washington County to provide such services.
 2. Septage shall be disposed of only by approved means as follows:
 - a. Into a municipal sewage treatment system capable of treating such wastes and as authorized by the Metropolitan Waste Control Commission.
 - b. At a land disposal site approved by the Minnesota Pollution Control Agency (MPCA). In no case shall septage be discharged to any body of water or to the ground surface at locations which have not been approved by the MPCA for surface application.
 3. Licensed contractors shall maintain accurate records of pumping activity and shall report such data quarterly to the Sewer Authority.

Section 510.07: Administration

- A. Applicability. This Ordinance shall apply and be in effect for the "201" constructed systems for the stated purposes within the "201" study areas in the unincorporated areas of Washington County within the Town of May (Refer to Map - Exhibit A).
- B. Enforcement.
1. The Town of May Zoning Administrator shall be responsible for administration and enforcement of this Ordinance.
 2. The Zoning Administrator or his agent shall be qualified and certified by the MPCA as competent in the design, evaluation and inspection of individual on-site sewage treatment systems, and shall carry a current Individual Sewage Treatment System Certificate and a current Class D Operators Certificate.
- C. Appeals and Variance Requests.
1. The Town of May Board of Adjustment and Appeals shall hear and decide appeals and review any order, decision or determination made by the Zoning Administrator regarding the enforcement of this Ordinance.

2. The Board of Adjustment and Appeals shall hear and act upon variance requests.
 3. Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county, or state which is aggrieved by the decision.
- D. Inspections as required to determine compliance with this Ordinance shall be performed by the Zoning Administrator or his authorized agent under the following circumstances:
1. Duly authorized employees of the Town shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. Those employees shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries except as is necessary to determine the kind and source of the discharge to the public sewer.
 2. The owner or occupant of a property shall be responsible to provide access at reasonable times, to the Zoning Administrator or his agent, for the purpose of performing inspections required under this Ordinance.
 3. While performing the necessary work on private property as referred to in Subdivision 1 of this Subsection, the authorized employees of the Town shall observe all safety rules applicable to the premises.

Section 510.08: Enforcement

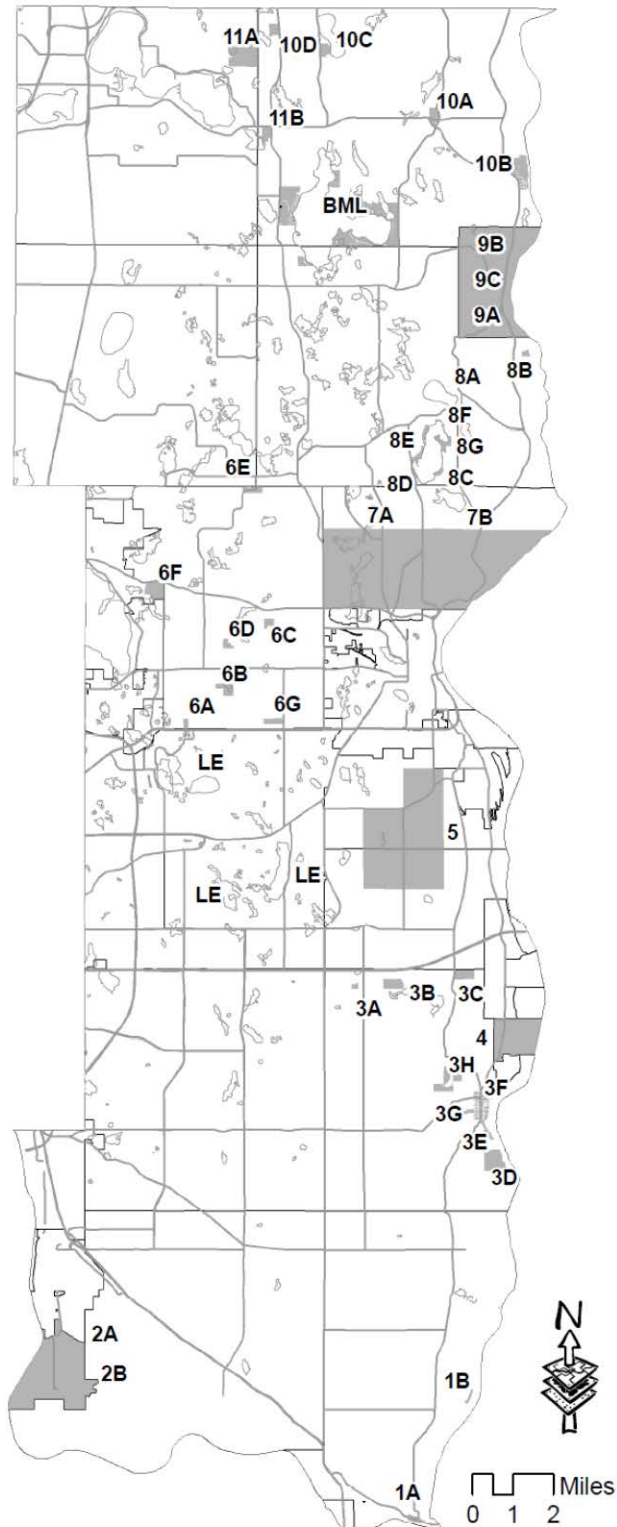
- A. Violations and Penalties.
1. It is hereby declared unlawful for any person, firm or corporation to violate any term or provision of this Ordinance. Violation thereof shall be a misdemeanor. Each day that a violation is allowed to continue shall constitute a separate offense.
 2. In the event of a violation or a threatened violation of this Ordinance, the Zoning Administrator, in addition to other remedies, may request appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it shall be the duty of the Town Attorney to initiate such action.
 3. Any person found to be violating any provisions of this Ordinance shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.

The offender shall within the time period stated in such notice permanently cease all violation.

4. Any person who shall continue any violation beyond the time limit provided for in said written notice shall be guilty of a misdemeanor and on conviction thereof shall be subject to imprisonment not exceeding ninety (90) days and a fine not exceeding \$700.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
5. Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss or damage occasioned by the Town by reason of such violation.
6. Any taxpayer of the Town may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

EXHIBIT A

- *AREA 1A
Point Douglas – Highway 10
- *AREA 1B
Cedar Heights
- *AREA 2A
North Grey Cloud
- *AREA 2B
South Grey Cloud
- AREA 3A
Richert's Acres
- AREA 3B
Tomahawk Hills
- AREA 3C
East of Stagecoach Trail
- AREA 3D
Swede Hill
- AREA 3E
River Road
- AREA 3F
Old Village
- AREA 3G
Schmitt's Afton Coulee Ridge
- AREA 3H
Afton Hills
- AREA 4
Lake Saint Croix Beach
- *AREA 5
Baytown Township
- *AREA 6A
Acre Ranch
- *AREA 6B
Sunny Brook Lake
- *AREA 6C
Glen Oak Terrace
- *AREA 6D
Wake Robin
- *AREA 6E
Withdraw
- *AREA 6F
Pine Tree Lake
- *AREA 6G
Sandeens Heights
- *AREA 7A
Stillwater Township West
- *AREA 7B
Stillwater Township East
- *AREA 8A
Square Lake
- *AREA 8B
Williamsport
- *AREA 8C
Crescent Beach
- *AREA 8D
Carnelian Park
- *AREA 8E
Carnelian – Oak Point Park
- *AREA 8F
Moonlight Bay
- *AREA 8G
Carnelian Hills
- *AREA 9A
Marine South
- AREA 9B
Central Marin
- AREA 9C
Marine North
- *AREA 10A
Scandia Village
- *AREA 10B
Copas – Otisville
- *AREA 10C
Bone Lake
- *AREA 10 D
Oak Ridge
- *AREA 11A
Valley Hills
- *AREA 11B
Sylvan Lake
- *AREA BML
Big Marine Lake
- AREA LE
Lake Elmo
- *UNICORPORATE AREAS



washington county 201 SEWER PLANNING AREAS

**ARTICLE 511: REGULATING THE USE OF WATERCRAFT –
A PERMANENT “NO WAKE” ORDINANCE**

(Originally Adopted Ord. 1203, April 4, 1996)
(Adopted Ord. 2016-03 for Codification, Effective April 21, 2016)

Section 511.01: Definitions

The following words and phrases when used in this ordinance have the meanings set forth below:

- (1) Person includes an individual, group, partnership, corporation, or any body of persons, whether incorporated or formed into an association or not.
- (2) Operate means to navigate or otherwise use a watercraft.
- (3) Watercraft is as defined in Minnesota Statute 361.02, Subdivision 7.
- (4) Slow-No Wake or “No Wake” means the operation of a watercraft at the lowest possible speed necessary to maintain steerage and in no case greater than five (5) miles per hour.
- (5) Permanent “no wake” designation means a “no wake” designation made under this ordinance is due to permanent conditions exhibited by a body of water, such as the sensitive shoreline and habitat of a Natural Environmental Lake, no matter the water level.

Section 511.02: No Wake Regulations

- A. That the permanent “No Wake” designation(s) as contained in Exhibit A as attached hereto, are hereby re-stated.
- B. That a permanent “No Wake” designation means that all persons and at all times shall operate watercraft at the lowest possible speed necessary to maintain steerage and in no case more than five (5) miles per hour.
- C. That the Town Board does hereby establish that, future permanent “No Wake” designations may be made only by the full Town Board, after conducting a properly noticed public hearing, and after consultation with its Engineer and other public agencies with an interest. The form of the Town Board’s designation of a permanent “no wake” designation will be that of an ordinance.

- D. For a permanent “No Wake” designation to become effective, the ordinance must be published in the Town’s newspaper of record, and “No Wake” must be prominently posted at official public landings on the body of water.
- E. That Exhibit A shall be added to so as to reflect each permanent “No Wake” ordinance designation, and becomes a cumulative history of these actions.

Section 511.03: Exemptions

Emergency and enforcement personnel when acting in the performance of their duties shall be exempt from the provisions of this ordinance.

Section 511.04: Notice and Marking

The Town of May shall be responsible for the “No Wake” posting at all public accesses, and notifying the DNR of any permanent “No Wake” designation.

Section 511.05: Enforcement and Penalties

The Washington County Sheriff shall be responsible for the enforcement of this ordinance. Any person who shall violate any provisions of this ordinance shall be guilty of a misdemeanor.

Exhibit A

Permanent “No Wake” Designations Enacted by the Town

Long Lake (DNR Water 82-30P) in Section 9, Twp 31 North, Range 20 West, was designated as a Permanent “No Wake” body of water by passage of Ordinance No. 1203 by the May Town Board on April 4, 1996.

Chapter 6

PUBLIC UTILITIES

**ARTICLE 601: CABLE COMMUNICATIONS FRANCHISE
(Amended by Ord. 2013-02, Effective July 6, 2013)**

An ordinance granting a franchise to Midcontinent Communications to construct, operate, and maintain a cable communications system in the Town of May, setting forth conditions accompanying the grant of the franchise, providing for regulation and use of the system, and prescribing penalties for the violation of the provisions of this Article 601 of the May Town Code.

Preamble

The Board of Supervisors of the Town of May does ordain that it is in the public interest to continue to permit the use of public rights-of-way and easements for the construction, maintenance, and operation of a cable communications system under the terms of this Franchise Ordinance, said public interest being specifically the enhancement of communications within the Town, and the provision of programming of a local interest.

Section 601.01: Statement of Intent and Purpose

- A. Statement of Intent and Purpose. The Town intends, by the adoption of this Ordinance, to authorize the continued operation of a cable communications system operating within the Town. This can contribute significantly to the communications needs and desires of many individuals, associations, and institutions.
- B. Fees and Costs. Grantee shall not be required to reimburse the Town for costs, or post an administrative escrow, associated with this ordinance, except for the basic application fee as defined in the Town's Fee Schedule as contained in the Town of May Municipal Code, Chapter 13.

Section 601.02: Short Title

This Article shall be known and cited as the "Town of May Cable Communications Franchise Ordinance."

Section 601.03: Definitions

For the purpose of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory while "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (1) Basic Service means any level of service that includes the retransmission of local television broadcast signals and the access channels required therein. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).
- (2) Cable Mile means a mile of cable bearing strand.
- (3) Channel means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel as defined by the Federal Communications Commission.
- (4) Town means the Town of May, Minnesota, a municipal corporation, or its delegations. The Board of Supervisors is the authority of the Town.
- (5) Class IV Channel means a signaling path provided by the System to transmit signals of any type from a subscriber terminal to another point in the System.
- (6) Complaint means any verbal or written inquiry, allegation or assertion made by a person which requires subsequent corrective action to the System or any portion thereof, or raises an objection to the programming or business practices of Grantee. The term "Complaint" does not include an inquiry which is immediately answered by the Grantee.
- (7) Converter means an electronic device by which an appropriate channel selector permits a subscriber to view all signals included in the Basic Service and Pay Television service delivered at designated converter dial locations.
- (8) Drop means the cable that connects the subscriber terminal at a point in the subscriber's home, designated by a subscriber, to the nearest feeder cable of the System.
- (9) FCC means the Federal Communications Commission.
- (10) Franchise Administrator means the Town Official designated by the Board of Supervisors who shall be responsible for the continuing administration of the Franchise.
- (11) Franchise or Franchise Ordinance means this Franchise Ordinance/Article together with all of the exhibits hereto, and all amendments or renewals hereof.
- (12) Grantee means Midcontinent Communications, its agents, employees, lawful successors, transferees or assignees.
- (13) Gross Revenues means the annual gross revenues of Grantee, as determined in accordance with generally accepted accounting principles, from all sources of operations of the System within the Town for Cable Service including, without limitation, Basic Service monthly fees, Pay Television fees, installation and reconnection fees, and advertising revenues. This term does not include any sales, excise or other taxes collected by Grantee on behalf of the state, Town, or other governmental unit. The term

does include any bad debt of Grantee. so long as the bad debt is equal to or less than two percent (2%) of the annual Gross Revenues. A franchise fee shall be imposed on that portion of bad debt in excess of two percent (2%) of the annual Gross Revenues. The term "Gross Revenues" shall include revenues derived from the provision of Internet Service, to the extent Internet Services are deemed "Cable Services" under federal law.

- (14) Installation means the act of connecting the System from the feeder cable to the subscriber terminal so that cable television service may be received by the subscriber.
- (15) Pay Television means the delivery over the System of per-channel or per-program audio-visual signals to Subscribers for a fee or charge, in excess of the charge for Basic Service.
- (16) Person means any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Minnesota, or any nature person.
- (17) Proposal of Grantee or Proposal means that certain document entitled "Cable Television Proposal to Town of May."
- (18) Public Property means any real property, other than a street, owned by any governmental unit.
- (19) Residential Unit means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more individuals. The term Residential Unit is not limited to units occupied by persons as their usual place of residence and includes units rented periodically or used only as seasonal homes.
- (20) Street means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, or any other public easement right-of-way now or hereafter held by the Town which shall, within its proper use and meaning in the sole opinion of the Town, entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a System.
- (21) Subscriber means any person or entity who subscribes to a service provided by Grantee by means of or in connection with the System whether or not a fee is paid for such service.
- (22) System means the facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment designed to provide cable television service (including, without limitation, video programming) and which is provided to multiple subscribers within the Town pursuant to this Franchise. "System" does not include (a) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; (b) a facility that services only subscribers in one (1) or more multiple unit dwellings under common ownership, control or management,

unless such facility or facilities crosses or uses any public right-of-way, including streets or easements; (c) a facility of a common carrier which is subject, in whole or part to the provisions of Title II of the Cable Communications Policy Act of 1984, except that such facility shall be considered a System to the extent such facility is used in the transmission of video programming directly to subscribers; or (d) any facilities of any electric utility used solely for operating its electric utility systems.

- (23) System Upgrade means the process by which the System shall be upgraded.
- (24) Tapping means monitoring communications signals, where the monitor is not an authorized monitor of the communications, whether the communications is monitored by visual or electronic means, for any purpose whatsoever.
- (25) Two-Way System means a System that can pass video, voice, and/or data signals in both directions simultaneously.

Section 601.04: Grant of Authority and General Provisions

- A. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein and incorporates by reference all of the terms and provisions of the Proposal (including, without limitation, all letters or documents clarifying the Proposal) submitted by Grantee to the Town in connection with Grantee's application for a franchise. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules, and regulations.
- B. Criteria of Selection. The Grantee's technical ability, financial condition, and legal qualifications were among those items considered and approved by the Town in full public proceedings of which Grantee was afforded reasonable notice and a reasonable opportunity to be heard.
- C. Authority for Use of Streets.
 - 1. For the purpose of constructing, operating, and maintaining the System, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets within the Town such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the System (hereinafter, "System Infrastructure"), provided that all System Infrastructure of a common or public nature must remain within the Town's street easements and right's-of-way, and that applicable permits are applied for and granted, all fees paid, and all other Town codes and ordinances are otherwise complied with.
 - 2. Prior to the construction or expansion of the System, Grantee shall, in each case, file plans with the Town and receive written approval of such plans, which approval shall not be unreasonably withheld.

3. Grantee shall construct and maintain the System so as not to interfere with other uses of Streets. Grantee shall make use of existing poles and other facilities available to Grantee. Grantee shall widely publicize proposed construction work prior to commencement of that work. Grantee shall individually notify in writing all residents affected by proposed underground work not less than forty-eight (48) hours prior to commencement of that work. Such notice shall include the Grantee's telephone number and the responsible employee of the Grantee.
 4. Notwithstanding the above grant to use the Streets, no Street shall be used by Grantee if the Town, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used.
- D. Franchise Term. This franchise shall commence upon acceptance by Grantee in accordance with the provisions of Section 601.10 hereof, and shall expire fifteen (15) years from such date unless renewed, revoked or terminated sooner as herein provided.
 - E. Area Covered. This Franchise is granted for the territorial boundary of the Town. In the event of annexation by the Town, any new territory shall become part of the area covered.
 - F. Police Powers. Grantee's rights are subject to the police powers of the Town to adopt and enforce ordinances necessary for the health, safety and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the Town pursuant to that power.
 - G. Use of Grantee Facilities. The Town shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of Grantee, any wires and fixtures desired by the Town, to the extent that such installation and maintenance does not interfere with existing and future operations of Grantee.
 - H. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to the person designated below, or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next addressed business day if sent by express mail or overnight air courier addressed to the party to which it is being given as follows:

If to Town:
Town of May
13519 May Avenue North
Stillwater, MN 55082
Attn: Town Clerk
Ph: 651-439-1706

If to Grantee:
Midcontinent Communications
Ms. Nancy Vogel
Director of Regulatory Finance
Midcontinent Communications
3901 North Louise Avenue
Sioux Falls, SD 57107
Ph: 605 357-5485

Such addresses and phone numbers may be changed by either party upon notice to the other party given as provided in this section.

- I. Franchise Non-Exclusive. The Franchise granted herein is non-exclusive. The Town specifically reserves the right to grant, at any time, additional franchises for a System in accordance with State and Federal law.
- J. Compliance with Laws. This Franchise complies with the Minnesota franchise standards contained in Minnesota Statutes, Chapter 238.

Section 601.05: Design Provisions

- A. System Design. Grantee shall, upon acceptance of this Franchise pursuant to Section 601.01 hereof, immediately undertake all necessary steps to construct and thereafter operate and maintain the System to a minimum of 440 MHz. Grantee shall provide a full description of the System proposed for construction and comply with the following requirements:
 - 1. Within ninety (90) days of the Town's grant of the franchise, Grantee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;
 - 2. Energized trunk cable must be extended substantially throughout the authorized area within one year after receipt of the necessary government permits, licenses, certificates, and authorizations, and persons along the route of the energized cable will have individual "drops" as desired during the same period of time; and
 - 3. This section may be waived by the Town only upon occurrence of unforeseen events or acts of God.
- B. Two-Way System. Grantee shall provide a cable communications system having the technical capability to perform as a Two-way System as defined herein.
- C. Interconnection. The System shall be designed to be interconnected with other systems. During the term of this Franchise, Grantee and Town shall periodically evaluate the technical and economic feasibility of interconnecting the System with the system serving Stillwater, Minnesota, including Stillwater area schools.
- D. Service Area. The service area will encompass those areas so marked on the attached map. As home density in areas contiguous to the service area reaches twenty (20) homes per cable mile, cable service will be extended to those areas.
- E. Provision of Service. After service has been established in any area, Grantee shall provide service to any requesting subscribers within that area thirty (30) days from the date of the request.
- F. Technical Standards. Grantee intends to design, construct, and operate the System so as to meet those technical standards set forth in Exhibit A.

G. Special Testing.

1. At any time after commencement of service to subscribers, the town may require or may retain an independent engineer to perform additional tests, full or partial repeat tests, different test procedures, or test involving a specific subscriber's drop. Such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy.
2. The Town shall endeavor to so arrange its requests for such special test so as to minimize hardship or inconvenience to Grantee or to the subscriber.
3. If such special testing establishes that the System meets all technical standards imposed by the FCC, the Town shall bear the expense for such special testing.
4. If such special testing establishes that the System does not meet all FCC technical standards, Grantee shall bear the expense for such special testing.

H. Signal Quality. The System shall produce a picture that is undistorted and free from internally generated ghost images, and without degradation of color fidelity. The System shall produce a sound that is undistorted from its reception quality and of a consistent level on an audio receiver of average quality.

I. Test and Compliance Procedures.

1. Grantee will periodically (but no less than once each year) shall perform necessary tests to verify compliance with the technical standards imposed by the FCC as set forth in Exhibit A.
2. These tests shall be performed at not more than six (6) locations approved by the Town.
3. The tests may, upon request of the Town, be witnessed by representatives of the Town. If one or more of the locations tested fail to meet the performance standards, Grantee shall complete corrective measures and report to the Town the corrective measures so taken. The entire test shall be repeated for the locations. Grantee shall bear the expense of all such testing and shall file a copy of all reports with the Town within ten days of the testing.

Section 601.06: Service Provisions

A. Basic Service. Grantee shall offer a broad variety of programming subject to the provisions of 47 USC §545.

- B. Pay Television. Grantee shall offer pay television services. A subscriber must subscribe to Basic Service in order to receive any Pay Television service. A subscriber shall not be required to subscribe to a monthly Pay Television service to receive pay-per-view programming.
- C. FM Broadcast Service. Grantee shall offer to Basic Service Subscribers an FM broadcast service with a broad selection of programming.
- D. Programming Decisions. Subject to the provisions of 47 U.S.C., Section 545, Grantee shall provide the broad variety of programming and shall provide the Town with thirty (30) days written notice of any channel realignment. Any such addition or deletion of programming shall not require an amendment to this Franchise, but shall be subject to the terms and conditions of this Franchise.

The Town and Grantee acknowledge that because the Town's System is linked to the Forest Lake, Minnesota system ("Base System"), any programming changes made by Grantee in the Base System will also be made in the Town. The Town and Grantee further acknowledge that they desire to avoid any such programming changes without providing the Town with notice and an opportunity to be heard on the matter. Accordingly, in the event Grantee proposes to make any programming changes in the Base System, Grantee shall provide the Town with the same notice of such proposed change as is required under the Base System franchise (but, in no event, will adequate notice not be given). The Town's citizens shall then have an opportunity to be heard at any public hearing regarding the Base System and any proposed changes.

- E. Emergency Alert System. Grantee shall install and thereafter maintain for use by the Town an Emergency Alert System (EAS). This system shall be remotely activated by telephone and shall allow a representative or the Town to override the audio on all channels of the System in the event of a civil emergency or for reasonable tests.
- F. Service to Public Buildings. Grantee shall provide one free drop from the Cable System to each public school within the Town and to the Town Hall that is within 300 feet of the Cable System. If a drop in excess of 300 feet is required, Grantee shall provide the first 300 feet free of charge and the remainder of such drop at the cost of Grantee's time and material.
- G. Access Channels.
 - 1. Grantee shall provide to each of its subscribers who receive some or all of the service offered on the System, reception on at least one specially designated noncommercial public access channel available for use by the general public on a first-come, first-served nondiscriminatory basis. The VHF spectrum must be used for at least one of the specially designated noncommercial public access channels required in this section.

2. No charges may be made for channel time or playback of pre-recorded programming on at least one of the specially designated noncommercial public access channels required by this section. Personnel, equipment, and production costs may be assessed, however, for live studio presentations exceeding five minutes in length. Charges for those production costs and fees for use of other public access channels must be consistent with the goal of affording the public a low cost of television access.
3. Whenever the specially designated noncommercial public access channel, the specially designated education access channel, the specially designated local government access channel, or the specially designated leased access channel is in use during eighty percent (80%) of the weekdays, Monday to Friday, for eighty percent (80%) of the time during any consecutive three (3) hours period for six weeks running, and if there is demand for use of an additional channel for the same purpose, Grantee shall have six (6) months in which to provide a new specially designed access channel for the same purpose.
4. Grantee and the Town shall jointly establish rules pertaining to the administration of the specially designated noncommercial public access channel.
5. In the event Grantee offers subscribers the option of receiving programs on one or more special service channels without also receiving the regular subscriber services, Grantee may comply with the requirements of this section by providing the subscribers who receive the special service only, at least one specially designated composite access channel composed of the programming on the specially designated noncommercial public access channel, the specially designated education access channel, and the specially designated government channel required in this Section.
6. In the event Grantee provides only alarm services or only data transmission services for computer-operated functions, Grantee need not provide access channel reception to alarm or data only service subscribers.

H. Access Equipment and Facilities.

1. Upon sixty (60) prior written notice from the Town, Grantee shall implement a public access fee of fifty cents (.50) per subscriber per month for the Town to acquire and maintain a camcorder, a character generator, modulator, and associated cables and materials (excluding tapes).
2. Public access production equipment set forth in paragraph 1 above shall be made available for access use subject only to those terms and conditions set forth in the Bylaws of the respective access organizations.

I. Regional Channel. The standard VHF channel 6 shall be designated for usage as a regional channel. Subject to approval by the Town, the designated regional channel may

be shared with the government access channel as may be required until such time as the Town requests a separate channel or until combined usage of the channel expands to such point as it is in use during eighty percent (80%) of the time between 8:00 a.m. and 10:00 p.m. during any consecutive six (6) week period.

Section 601.07: System Expansion - Construction Provisions

Grantee may apply to the Town for approval to expand the system, and if such approval is granted, provisions governing such expansion construction will be as follows:

A. Construction Timetable.

1. Grantee shall give notice to the Town sixty (60) days prior to the anticipated completion date and again at such time as Grantee has completed all expansion construction.
2. Upon receipt of notice from Grantee that all construction has been completed, the Town shall have forty-five (45) days to obtain, at its expense, a written report from an independent engineer confirming the completion of construction; provided, however, that if the Town fails to obtain such a written report within said forty-five (45) days, the construction shall be deemed completed, unless the Town's failure to obtain such a report is due to unforeseen events, acts of God, or events beyond the reasonable control of the Town.
3. Notwithstanding any provision contained herein to the contrary, the Town may condition completion of construction upon receipt of a written report from an independent engineer which confirms the following:
 - (a) That all construction has been completed or otherwise satisfactorily resolved;
 - (b) Satisfactory test results using the technical standards set forth herein at up to ten (10) widely separated subscriber drops selected by the independent engineer that the system complies with FCC technical standards outlined in federal law and in Exhibit A hereto.
 - (c) Compliance with all applicable codes and standards.
 - (d) Installation and the proper working of the proper working of the Emergency Alert System required herein.
 - (e) Carriage of the Basic Service, as available, set forth herein.

B. Construction Delay. Grantee shall notify the Town of any delay in the construction of the system expansion.

- C. Construction Progress Reports. Grantee shall furnish the Town, upon request of the Town, with written monthly progress reports, in a format approved by the Town, detailing the progress of the construction of the system expansion.
- D. Construction Standards.
1. All construction practices shall be in accordance with all applicable section of the then current Occupational Safety and Health Act, as well as all state and local codes where applicable.
 2. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the National Electrical and Safety Code and National Electrical and Safety Code and National Electrical Code as amended.
 3. Antennas and their supporting structures (tower) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local codes and regulations.
 4. All of Grantee's plant and equipment, including but not limited to the antenna site, headend and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the Town may deem appropriate to make, or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.
 5. Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.
- E. Construction Codes and Permits.
1. Grantee shall obtain all required permits from the Town before commencing any work requiring a permit, including the opening of disturbance of any Street, or public property or public easement within the Town. Grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in the Town.
 2. The Town shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Franchise and, at its expense, to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

3. Nothing contained in this Franchise, shall be construed to give Grantee the authority to enter upon or work on private property in areas not encumbered with public easements without the permission of the property owner.
- F. Repair of Streets and Property. Any and all Streets or public property or private property which are disturbed or damaged during the construction, repair, replacements, relocation, operation, maintenance or reconstruction of the System shall be promptly repaired by Grantee, at its expense to a condition as good as that prevailing prior to Grantee's construction.
- G. Use of Existing Poles. Grantee shall not erect, for any reason, any pole on or along any Street in an existing aerial utility system without the advance written approval of the Town. Grantee shall exercise its best efforts to negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction.
- H. Undergrounding of Cable. Cable shall be installed underground at Grantee's expense where both the existing telephone and electrical utilities are already underground. Grantee shall place cable undergrounding newly platted areas in concert with both the telephone and electrical utilities, unless this requirement is waived by the Town. In the event that telephone or electric utilities are reimbursed by the Town or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as the telephone or electric utilities.
- I. Reservation of Street Rights.
1. Nothing in this Franchise shall be construed to prevent the Town from construction, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
 2. All such work shall be done, insofar as practicable in such a manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.
 3. If any such property of Grantee shall interfere with the construction or relocation, maintenance or repair of any Street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, or water main, Street or any other public improvement, thirty (30) days notice shall be given to Grantee by the Town and all such poles, wires, conduits or other appliances and facilities shall be removed or replaced by Grantee in such manner as shall be directed by the Town so that the same shall not interfere with the said public work of the Town, as determined by the Town, and such removal or replacement shall be at the expense of Grantee herein.

4. Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, regarding, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.
- J. Trimming of Trees. Grantee shall have the authority to trim trees upon and hanging over streets, alleys, sidewalks, and public places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee; provided, however, all trimming shall be done under the supervision and direction of the Town, if requested by the Town, at the expense of the Grantee.
- K. Street Vacation or Abandonment. In the event any street or portion thereof used by Grantee shall be vacated by the Town or the use thereof discontinued by Grantee, during the term of this Franchise, Grantee shall, at Grantee's expense, forthwith remove its facilities therefrom unless specifically permitted by the Town to continue the same, and on the removal thereof restore, repair or reconstruct the Street area where such removal has occurred, and place the street area where such removal has occurred to a condition similar to that existing before such removal took place. In the event of failure, neglect or refusal of Grantee, after thirty (30) days notice by the Town to remove the facilities or to repair, restore, reconstruct, improve or maintain such street portion, the Town may do such work or cause it to be done, and the cost thereof as found and declared by the Town and collection may be made by any available remedy.
- L. Movement of Facilities. The Town and Grantee acknowledge that during the term of this Franchise it may be necessary temporarily to move or remove some of the Grantee's wires, cables, poles, or other facilities placed pursuant to this Franchise in order to lawfully move a large object, vehicle, building or other structure over the streets of the Town. In such event, provided the Town gives Grantee two weeks prior notice and the person requesting the move reimburse Grantee in advance for the cost incurred by Grantee in moving or removing its facilities, Grantee shall move such of his facilities as may be required to facilitate such movements. Any service disruption provisions of this Franchise shall not apply in the event that the removal of Grantee's wires, cable, poles, or other facilities results in temporary service disruptions.

Section 601.08: Operation and Maintenance

- A. Open Books and Records. The Town shall have the right to inspect, upon twenty- four (24) hours written notice, at any time during normal business hours at Grantee's local business office all books, records, maps, plans, financial statements, service complaint logs, performance test results, record of requests for service and other like materials of Grantee which are reasonably necessary to monitor compliance with the terms of this Franchise.
- B. Communications with Regulatory Agencies. Upon request, copies of all petitions, applications, communications and reports submitted by Grantee or on behalf of or

relating to Grantee, to the FCC, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the System authorized pursuant to this Franchise, shall also be submitted simultaneously to the Town. Copies of responses from the regulatory agencies to Grantee shall likewise be furnished to the Town within fifteen (15) days of receipt of the response.

- C. Annual Report. On or before April 1 of each year during the term of this Franchise, Grantee shall file with the Town a copy of the following information regarding the System as operated by Grantee in the Town:
1. A statement prepared and certified by a financial officer of Grantee which details for each month during the prior calendar year the Gross Revenue of Grantee.
 2. A copy of all reports (regarding the same time period as the statement required by paragraph 1 above) filed by Grantee with the Forest Lake franchising authority, to the extent such reports relate to the operation of the System in the Town.
- D. Additional Reports. Grantee shall prepare and furnish to the Town, at the times and in the form prescribed, such additional reports with respect to its operations, affairs, transactions or property, which are mutually acceptable and reasonably necessary for the administration and enforcement of this Franchise.
- E. Maps. Grantee shall maintain on file with the Town at all times a current strand map or set of maps drawn to scale showing the System and all equipment installed or in place in streets and other public places.
- F. Audit. The Town and its agents and representatives shall have the authority, during normal business hours, to arrange for and conduct an inspection of the books, records, and equipment of Grantee. Grantee shall first be given a twenty-four (24) hours written notice of the inspection request, a description of and purpose for the inspection, and a description, to the best of the Town's ability, of the books, records, documents, or equipment it wants to inspect.
- G. Periodic Evaluation and Renegotiation. The field of cable communications is subject to change and may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for a maximum degree of flexibility in this Franchise, and to allow the parties to address problems or concerns which may arise during the term of this Franchise regarding the operation of the System, the following evaluation provisions will apply:
1. The Town reserves the right to adopt rules and regulations, to the extent they are consistent with the terms of this Franchise, controlling the procedures as set forth below for evaluation and renegotiation. In the absence of any Town action taken to exercise these rights, Grantee shall be subject to at least the procedures and subjects described in this section.

2. The Town may require, in its sole discretion, a system evaluation at any time during the term of this Franchise; provided, however, there shall not be more than one evaluation during any calendar year. At a minimum, such evaluation sessions shall be conducted by the Town within thirty (30) days of the fifth (5th) and tenth (10th) anniversary dates of the adoption of this Franchise.
3. Topics which may be discussed during any evaluation and/or renegotiation include, without limitation, channel capacity, system performance, programming, access, municipal uses of cable, subscriber complaints, judicial rulings, FCC rulings and any other topics the Town or Grantee deem relevant.
4. During an evaluation, Grantee shall fully cooperate with the Town and shall provide without cost such information and documents as the Town may reasonably request to perform the evaluation.
5. If at any time during its evaluation the Town determines that reasonable evidence exists of inadequate System performance, the Town may require Grantee to perform, at Grantee's expense, tests and analysis directed toward such suspected inadequacies. Grantee shall fully cooperate with the Town in performing such testing and any report prepared by Grantee shall include at least:
 - (a) A description of the problem in the System performance which precipitated the special tests.
 - (b) The System component tested.
 - (c) The equipment used and procedures employed in testing.
 - (d) The method, if any, by which such the System performance problem was resolved.
 - (e) Any other information pertinent to said tests and analysis which may be required by the Town, or determined when the test is performed. If after receiving Grantee's report the Town determines that reasonable evidence still exists of inadequate System performance, the Town may enlist an independent engineer, at Grantee's expense, to perform tests and analysis directed toward such suspected inadequacies.
6. As a result of an evaluation and renegotiation session, the Town and/or Grantee may determine that a change in the terms of the Franchise is desirable or necessary. If the change is consistent with the terms of this Franchise, the needs of the Town, and existing state-of-the-art cable television systems (or due to regulatory, technical, financial, marketing, economic, or legal factors or requirements), and implementation of a change would not unreasonably add to the cost of providing cable television services hereunder, Grantee and the Town will,

in good faith, negotiate the terms of the change and any required amendment to this Franchise. Upon adoption of such a Franchise amendment, if one is required, the change will become effective and Grantee shall accept same. No provision of this Section 601.08, Subd. G shall be construed as a waiver of any of the Town's other rights and remedies under this Franchise.

Section 601.09: Consumer Protection Provisions

- A. Approval of Basic Service Rate Changes. Grantee shall maintain on file with the Town at all times a current schedule of all rates and charges. The Town reserves the right to regulate rates for Basic Service, to the extent not prohibited by federal or state law, through approval or disapproval of a rate revision request after affording Grantee due process.
- B. Non-Regulated Rates. Prior to implementing any rate increase for Basic Service not requiring the Town's approval, Grantee shall give the following notice:
1. At least thirty (30) days advance written notice to the Town; and
 2. At least thirty (30) days advance written notice to subscriber of Basic Service.
- C. Charges for Disconnection or Downgrading of Service.
1. Grantee may impose a charge reasonably related to the cost incurred for a downgrade or service, except that no such charge may be imposed when:
 - (a) A subscriber requests total disconnection from the System; or
 - (b) A subscriber requests the downgrade within a thirty (30) day period following any rate increase relative to the service in question.
 2. If a subscriber requests disconnection from the service prior to the effective date of an increase in rates, the subscriber shall not be charged the increased rate if Grantee fails to disconnect service prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from service shall receive a prorated refund of any amounts paid in advance.
- D. Subscriber Complaint Practices.
1. Grantee shall maintain a service office which shall be open for visits during normal business hours. Grantee shall have a publicly listed toll-free telephone number for a customer call center to be so operated as to receive subscriber complaints and inquiries on a twenty-four (24) hour-a-day, seven (7) days-a-week basis. Grantee shall maintain and make available for the Town to inspect a written log listing all customer calls and the dispositions thereof.

2. Grantee shall render efficient service and make repairs promptly at its expense. Grantee shall not interrupt service except for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice to the Town and to subscribers, and shall occur during periods of minimum use of the System. A written log available for Town inspection shall be maintained for all service interruptions.
 3. Grantee shall maintain adequate call center capacity and field personnel to respond in a timely manner, to answer subscriber calls and complaints, and to schedule service calls as required by this Section 601.09, Subd. D.
 4. Grantee shall use its best efforts to respond to and resolve the same day any subscriber request for maintenance or repairs which Grantee receives prior to 2:00 p.m., Monday through Friday.
 5. Grantee shall use its best efforts to respond to and resolve within twenty-four (24) hours any subscriber request for maintenance or repairs received after 2:00 p.m., Monday through Friday, or on weekends.
 6. Service calls for maintenance or repair shall be performed at no charge; provided, however, if such maintenance or repair is required as a result of damage caused by the subscriber, then Grantee may charge according to its actual cost for time and material.
 7. If Grantee fails to correct a reported service problem within seventy-two (72) hours, Grantee shall, upon the request of a Subscriber, credit 1/30th of the monthly charge to the affected Subscriber for each twenty-four (24) hours or fraction thereof after the first twenty-four (24) hours during which a subscriber is without service, except to the extent that restoration of service is prevented by strike, injunction or other cause beyond the control of Grantee.
- E. Subscriber Information. Grantee shall provide to the Town subscriber service information in writing, whether such service is prompted by a customer call or by Grantee's initiation, which shall include, but not be limited to, the following:
1. The procedure for investigation and resolution of subscriber service complaints;
 2. Programming services and rates for such services;
 3. Billing practices as required herein;
 4. A/B switch;
 5. Service termination procedures;
 6. Change in service procedures; and

7. Refund policy.

Grantee shall provide this information to the subscriber upon request.

F. Subscriber Billing Practices.

1. Grantee shall notify each of its subscribers, through the written service information of its billing practices. The service information shall describe Grantee's billing practices including, but not limited to, the following: frequency of billing, time periods upon which billing is based, advance billing practices, security deposit requirements, charges for late payments and returned checks, payments required to avoid account delinquency, availability of credits for service outages, procedures to be followed by request for service deletions including the notice period a subscriber must give to avoid liability for such services and procedures to be followed in the event of a billing dispute.
2. Grantee shall notify all affected subscribers not less than thirty (30) days prior to any change in the billing practices and such notice shall include a description of the changed practice.
3. The subscriber bill shall contain the following information presented in plain language and format:
 - (a) Name and address of Grantee;
 - (b) The period of time over which each chargeable service is billed including prorated periods as a result of the establishment and termination of service;
 - (c) The charge levied for services;
 - (d) Taxes due, if any;
 - (e) The amount of the bill for the current billing period, separate from any balance due;
 - (f) Grantee's telephone number and a statement that the subscriber may call this number with any questions or complaints about the bill; and
 - (g) The date on which payment is due from the subscriber.

Section 601.10: General Financial and Insurance Provisions

A. Payment to Town.

1. Grantee shall pay to the Town an annual amount equal to five percent (5%) of its Gross Revenues, which amount the parties deem fair and reasonable. The foregoing payment shall be compensation for use of streets and other public property.
2. Payment due the Town under this provision shall be payable monthly and shall be computed at the end of each month during the term of this Franchise. Payments shall be due and payable thirty (30) days after the close of each calendar month. Each payment shall be accompanied by a brief report showing the basis for the computation and other relevant facts as may be required by the Town.
3. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the Town may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and re-computation by the Town.
4. The certification of Gross Revenues provided to the Town by Grantee pursuant to this Article shall be used to determine the amount of payments due the Town and to correct any overpayments or underpayments by Grantee.
5. In the event any payment is not made on the due date, interest on the amount due shall accrue from such date at the annual rate of Twelve Percent (8%).

B. Performance Bond.

1. At the time the Franchise is accepted, Grantee shall furnish and file with the Town a performance and payment bond, or such other security (or a combination of bonds and other security) as is approved by the Town. The bond or other security shall run in favor of the Town to be used in case of Grantees' non-performance under this Franchise, in the penal sum of Twenty-five Thousand Dollars (\$25,000.00). The bond or other security shall be conditioned upon the faithful performance of Grantee of all terms and conditions of any construction. The rights reserved to the Town with respect to the bond or other security are in addition to all other rights the Town may have under the Franchise or any other law.
2. Following the completion of the construction as determined by the Town in accordance with Section 601.07, Subd. A(2), the bond or other security shall be reduced and Grantee shall maintain a security fund pursuant to Section 601.10, Subd. C hereof.

3. The rights reserved by the Town with respect to the bond or other security are in addition to all other rights the Town may have under the Franchise or any other law.
4. Any bond posted by Grantee shall be subject to the approval of the Town and shall contain the following endorsement:

“It is hereby understood and agreed that this bond may not be canceled without the consent of the Town until sixty (60) days after receipt by the Township by registered mail, return receipt requested, or a written notice of intent to cancel or not to renew.”

C. Security Fund.

1. At the time this Franchise is accepted, Grantee shall deposit into a bank account, established by the Town in its favor, and maintain on deposit through the term of this Franchise, A security fund in the sum of Five Thousand Dollars (\$5,0000) as a common security fund for the faithful performance by it of all the provisions of this Franchise and compliance with all orders, permits and directions the Town and the payment by Grantee of any claim, liens and taxes due the Town which arise by reason of the construction, operation or maintenance of the System. Interest on this deposit shall be paid to Grantee by the bank at such intervals as the bank pays interest, but at least on an annual basis.
2. Provisions shall be made to permit the Town to withdraw funds from the security fund. Grantee shall not use the security fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any purpose. The Town reserves the right, in its sole discretion, to change the required amount of the security fund as business needs may dictate.
3. Within ten (10) days after notice to it that any amount has been withdrawn by the Town from the security fund pursuant to paragraph (1) of this Section, Grantee shall deposit a sum of money sufficient to restore such security fund to the required amount.
4. If Grantee fails to pay to the Town any revenue share, permit fees, or taxes due, or fails to repay to the Town, any damage, costs or expenses which the Town shall be compelled to pay by reason of any act or default of the Grantee in connection with this Franchise; or fails, after ten (10) days notice of such failure by the Town to comply with any provision of the Franchise with the Town reasonably determines can be remedied by an expenditure of the security fund.

- D. Penalties from Security Fund. In addition to any other remedies provided herein, penalties for violations of this Franchise are set forth below. As a result of any acts or omissions by Grantee pursuant to the Franchise, the Town may charge to and collect from the security fund the following penalties:

1. For failure to complete any construction in accordance with the Franchise unless the Town approves the delay, the penalty shall be One Hundred Dollars (\$100.00) per day for each day, or part thereof, such failure occurs or continues.
2. For failure to provide to the Town the date, documents, reports or information required to be provided hereunder, the penalty shall be One Hundred Dollars (\$100.00) per day.
3. For failure to comply with any provisions of this Franchise, for which a penalty is not otherwise specifically provided, the penalty shall be One Hundred Dollars (\$100.00) per day.
4. For failure to test, analyze and report on the performance of the System following a request by the Town the penalty shall be One Hundred Dollars (\$100.00) per day.
5. For failure of Grantee to comply with operation or maintenance standards the penalty shall be One Hundred Dollars (\$100.00) per day.
6. For failure to comply with all conditions of the Town permits to disturb streets, fix streets, or other terms or conditions of the Town, the penalty shall be One Hundred Dollars (\$100.00) per day.

E. Procedure for Imposition of Penalties.

1. Whenever the Town finds that Grantee has allegedly violated one (1) or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall specify with particularity the alleged violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the Town may resort to the security fund. Grantee may, within ten (10) days of receipt of notice, notify the Town that there is dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to the Town shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time.
 - (a) The Town shall hear Grantee's dispute at a regularly or specially scheduled meeting. Grantee shall have the right to subpoena and cross-examine witnesses. The Town shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, Grantee may petition for reconsideration.
 - (b) If after hearing the dispute the claim is upheld by the Town, Grantee shall have ten (10) days from such a determination to remedy the violation or

failure. At any time after that ten (10) day period, the Town may draw against the security fund all penalties due it.

2. The time for Grantee to correct any alleged violation may be extended by the Town if the necessary action to correct the alleged violation is of such a nature or character to require more than thirty (30) days within which to perform provided Grantee commences the corrective action within the thirty (30) day period and thereafter uses reasonable diligence, as determined by the Town, to correct the violation.
3. The security fund deposited pursuant to this Section shall become the property of the Town in the event that the Franchise is canceled by reason of the default of Grantee or revoked for cause. Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit as the expiration of the term of the Franchise.
4. The rights reserved to the Town with respect to the security fund are in addition to all the other rights of the Town whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of right with respect to such security fund shall affect any other right the Town may have.
5. The Town shall stay or waive the imposition of any penalties set forth above upon a finding that any failure or delay is a result of an act of God or due to circumstances beyond the reasonable control of Grantee.

F. Damages and Defense.

1. Grantee shall indemnify, defend and hold harmless the Town for all damages and penalties, at all times during the term of this Franchise, as a result of the procedures for granting this Franchise, or the granting of this Franchise, or of Grantee's exercise of this Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omission, theft, fire, and all other damages arising out of Grantee's exercise of this Franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise, such indemnification shall include, but not be limited to, reasonable attorney's fees and costs.
2. In order for the Town to assert its rights to be indemnified, defended, and held harmless, the Town must:
 - (a) Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;
 - (b) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or

proceeding; unless, however, the Town, in its sole discretion, determines that its interests cannot be represented in good faith by Grantee; and

- (c) Fully cooperate with the reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph (b) above.
3. The Town reserves the right to participate in the defense of any litigation in which it is named as a defendant either through intervention or otherwise. In the event the Town elects to defend itself in any such litigation, Grantee shall pay, upon receipt of written demand from the Town, all expenses incurred by the Town in defending itself with regard to any matters set forth in this Section 601.10. These expenses shall include, without limitation, costs and disbursement, attorneys' fees, and the reasonable value of services (as determined by the Town) rendered by the Town or any of its employees, agents, or representatives.

G. Liability Insurance.

1. Grantee shall add the Town as an additional insured on its existing liability insurance policy(ies) and shall maintain throughout the term of the Franchise, liability insurance insuring Grantee and the Town with regard to all damages and harms mentioned in Section 601.10 hereof, in the minimum amounts of:
 - (a) Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to any one (1) person;
 - (b) Two Million Dollars (\$2,000,000.00) for bodily injury or death resulting from any one accident;
 - (c) Five Million Dollars (\$5,000,000.00) for all other types of liability.
2. At the time of acceptance, Grantee shall furnish to the Town a certificate evidencing that the Town has been named as an additional insured on an insurance policy which comports with the requirements of Section 601.10. Said certificate shall require that the Town be notified thirty (30) days prior to any expiration of cancellation.

H. Town's Right to Revoke. In addition to all other rights which the Town has pursuant to law or equity, the Town reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, in the event that:

1. Grantee substantially violates any provisions of this Franchise; or
2. Grantee attempts to evade any of the provisions of this Franchise and refuses to cure it; or

3. Grantee practices any fraud or deceit upon the Town or subscriber; or
4. Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt; or
5. Grantee materially misrepresents a fact in the application for or negotiation of, or renegotiation of, or renewal of, the Franchise.

I. Revocation Procedures. In the event that the Town determines that Grantee has violated any provision of the Franchise, or any applicable federal, state or local law, the Town may make a written demand on Grantee that it remedy such violation and that continued violation may be cause for revocation. If the violation, breach, failure, refusal, or neglect is not remedied to the satisfaction of the Town within thirty (30) days following such demand, the Town shall determine whether or not such violation, breach failure, refusal or neglect by Grantee is due to acts of God or other causes which result from circumstances beyond Grantee's control.

1. A public hearing shall be held and Grantee shall be provided with an opportunity to be heard upon fourteen (14) days written notice to Grantee of the time and place of the hearing. The causes for pending revocation and the reasons alleged to constitute such cause shall be recited in the notice. Said notice shall affirmatively recite the causes that need to be shown by the Town to support a revocation.
2. If notice is given and, at Grantee's option, after a full public proceeding is held, the Town determines there is a violation, breach, failure, refusal, or neglect by Grantee, the Town shall direct Grantee to correct or remedy the same within such reasonable additional time, in such manner and upon such reasonable terms and conditions as Town may direct.
3. If after a public hearing it is determined that Grantee's performance of any of the terms, conditions, obligations, or requirements of Franchise was prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof, provided Grantee has notified Town in writing within thirty (30) days of its discovery of the occurrence of such an event. Such causes beyond Grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of God, civil emergencies and labor strikes.
4. If, after notice is given and, at Grantee's option, a full public proceeding is held, the Town determines there was a violation, breach, failure, refusal, or neglect, then the Town may declare, by resolution, the Franchise revoked and canceled and of no further force and effect unless there is compliance within such period as Town may fix. Such period shall not be less than thirty (30) days, provided no

opportunity for compliance needs to be granted for fraud, misrepresentation, or violation of privacy rights.

5. The issue of revocation shall automatically be placed upon the Town Board agenda at the expiration of the time set by it for compliance. The Town then may terminate Franchise forthwith upon finding that Grantee has failed to achieve compliance or may further extend the period, in its discretion.
6. If the Town, after notice is given and, at Grantee's option, a full public proceeding is held and appeal is exhausted, declares the Franchise breached, the parties may pursue their remedies pursuant to Franchise or any other remedy, legal or equitable.

Section 601.11: Foreclosure, Receivership and Abandonment

- A. Foreclosure. Upon the foreclosure or other judicial sale of the System, Grantee shall notify the Town of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.
- B. Receivership. Subject to any applicable provisions of the Bankruptcy Code of state law, the Town shall have the right to cancel this Franchise one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:
 1. Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and,
 2. Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to bound by each and every provision of this Franchise.
- C. Abandonment. Grantee may not abandon any portion of the System thereof without having first given three (3) months written notice to the Town. Grantee may not abandon any portion of the System without compensating the Town for damages resulting from the abandonment.

Section 601.12: Removal and Transfer

A. Removal After Revocation or Expiration.

1. At the expiration of the term for which the Franchise is granted, or upon its revocation, as provided for, the Town shall have the right to require Grantee to remove, at Grantee's expense, all or any portion of the System from all streets and public property within the Town. In so removing the System, Grantee shall refill, compact, re-grade, seed, and otherwise stabilize at its own expense, any excavation that shall be made and shall leave all streets, public property and private property in as good a condition as that prevailing prior to Grantee's removal of the System, and without affecting, altering or disturbing in any way electric, telephone or utility, cables, wires, or attachments. The Town, or its delegation, shall have the right to inspect and approve the condition of such streets and public property after removal. The security fund, insurance, indemnity, and penalty provisions of the Franchise shall remain in full force and effect during the entire term of removal.
2. If, in the sole discretion of the Town, Grantee has failed to commence removal of the System, or such part thereof as was designated within thirty (30) days after written notice of the Town's demand for removal is given, or if Grantee has failed to complete such removal within one (1) year after written notice of the Town's demand for removal is given, the Town shall have the right to exercise one of the following options:
 - (a) Declare all right, title and interest to the System to be in the Town or its delegator with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it; or
 - (b) Declare the System abandoned and cause the System, or such part thereof as the Town shall designate, to be removed at no cost to the Town. The cost of said removal shall be recoverable from the security fund, indemnity and penalty section provided for in the Franchise, or from Grantee directly.

B. Transfer of Ownership or Control.

1. This Franchise shall not be sold, assigned, or transferred, either in whole or in part, leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person without full compliance with the procedure set forth in this Section.
2. The provisions of this Section shall apply to the sale or transfer of all or a majority of Grantee's assets, merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation or sale or transfer

of stock in Grantee so as to create a new controlling interest. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

- (a) The parties to the sale or transfer shall make a written request to the Town for its approval of a sale or transfer. The Town shall then make a determination pursuant to this Franchise as to the exercise of its first right of refusal to purchase the System.
- (b) The Town shall reply in writing within thirty (30) days of the request and shall indicate approval of the request or its determination that public hearing is necessary due to potential adverse effect on Grantee's subscribers.
- (c) If a public hearing is deemed necessary pursuant to (b) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing notice thereof. The notice shall contain the date, time, and place of the hearing and shall briefly state the substance of the action to be considered by the Town.
- (d) Within thirty (30) days after the closing of the public hearing, the Town shall approve or deny in writing the sale or transfer request.
- (e) Within thirty (30) days of any transfer, Grantee shall file with the Town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership, or control or lease, certified and sworn to as correct by the Grantee.

- 3. In reviewing a request for sale or transfer pursuant to paragraph (a) above, the Town may inquire into the legal, technical, and financial qualifications of the prospective controlling party, and Grantee shall assist the Town in so inquiring. The Town shall not unreasonably withhold its approval. In no event shall a transfer of assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise.

- C. Town's Right to Purchase System. The Town shall be entitled to a right of first refusal of any bona fide offer to purchase the System made to Grantee. Bona fide offer as used in this Section means a written offer which has been accepted by Grantee subject to the Town's rights under this Franchise. The price to be paid by the Town shall be the bona fide offer including the same terms and conditions as the bona fide offer. The Town shall notify Grantee of its decision to purchase within thirty (30) days of the Town's receipt from Grantee of a copy of written bona fide offer.

Section 601.13: Rights of Individuals Protected

- A. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, programmers or general citizens on the basis of race, color, religion, national origin, sex, age or sexual orientation. Grantee shall comply at all times with all other applicable, federal, state and the Town laws, and all executive and administrative orders relating to non-discrimination.
- B. Subscriber Privacy.
1. No signal of a Class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable communications activity planned for the purpose of monitoring individual viewer patterns or practices.
 2. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, or any other means, including but not limited to lists of the names and addresses of such subscribers of any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the subscriber subject of that information, unless Grantee has received specific written authorization from the subscriber to make such data available.
 3. Written permission from the subscriber shall not be required for the conducting of the System wide or individually addressed electronic sweeps for the purpose of verifying the system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in paragraph (1) of this Section.

Section 601.14: Miscellaneous Provisions

- A. Compliance with Laws. Grantee and Town shall conform to all state laws and rules regarding cable television not later than one year after they become effective unless otherwise stated. Grantee and the Town shall conform to all state and federal laws and rules regarding cable television as they become effective, unless otherwise stated. Grantee shall also conform with all the Town ordinances, resolutions, rules and regulation heretofore or hereafter adopted or established during the entire term of the Franchise.

- B. Franchise Renewal. This Franchise may be renewed in accordance with applicable state and federal law.
- C. Continuity of Service Mandatory. Upon expiration or the termination of this Franchise the Town may require Grantee to continue to operate the System for an extended period of time not to exceed six (6) months. Grantee shall, as trustee for its successor in interest, continue to operate the System under the terms and conditions of this Franchise. In the event Grantee does not so operate the System, the Town may take such steps as it, in its sole discretion, deems necessary to assure continued service to subscriber.
- D. Work Performed by Others.
1. Grantee shall give notice to the Town specifying the names and addresses of any other entity, other than Grantee, which performs services pursuant to this Franchise, provided, however, that all provisions of this Franchise shall remain the responsibility of Grantee, and Grantee shall be responsible for and hold the Town harmless for any claim or liability arising out of work performed by persons other than Grantee.
 2. All provisions of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise.
- E. The Franchise Shall Comply With All Compliance with Federal, State and Local Laws.
1. If any federal or state law or regulation shall require or permit Grantee to perform any service or act or shall prohibit Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, Grantee shall notify the Town of the point of conflict believed to exist between such law or regulation.
 2. If any term, condition or provisions of this Franchise or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall then be effective and be complied with.
 3. Notwithstanding anything to the contrary, in the event that any court, agency, commission, legislative body or other authority or competent jurisdiction (i) declares any part of this Article 601 invalid, or (ii) requires Grantee either to (a)

perform any act which is inconsistent with any of the said Section or (b) cease performing any act required by said Section, Grantee shall immediately notify the Town. Such notice shall state whether Grantee intends to exercise its rights pursuant to such declaration or requirement. If the Town determines within six (6) months of receiving such notice that said declaration or requirement has a material and adverse effect on the Franchise, the Town shall notify Grantee and Town and Grantee will negotiate in good faith the required changes to this Franchise.

4. The Cable Franchise shall comply with all public utility requirements of Chapter 6.
- F. Non-enforcement by Town. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure of the Town to enforce prompt compliance.
- G. Administration of Franchise.
1. The Town shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The Town may issue such reasonable rules and regulations concerning the construction, operation, and maintenance of the System as are consistent with the provisions of this Franchise.
 2. Grantee shall construct, operate and maintain the System subject to the supervision of all the authorities of the Town and all other regulatory authorities who have jurisdiction in such matters, and in strict compliance with all laws, ordinances, departmental rules and regulations affecting the System.
 3. Grantee shall notify subscriber and the Town by mail of completion of installation. If the subscriber or the Town believes restoration is not satisfactory the grantee shall immediately restore the site to equal or better condition than previously existed.
 4. The System and all parts thereof shall be subject to the right of periodic inspection by the Town provided that such inspection shall not interfere with the operation of the System and such inspections take place during normal business hours.
- H. Cable Television Advisory Commission. The Town may provide for an ongoing cable television advisory commission. The specific nature, composition, and authority of the commission shall be determined by the Town.
- I. Miscellaneous Violations.
1. From and after the acceptance of the Franchise, it shall be unlawful, for any person to establish, operate or to carry on the business of distributing to any persons in the Town any television signals or radio signals by means of a System

using public rights of ways unless a Franchise therefore has first been obtained pursuant to the provisions of an ordinance, and unless such Franchise is in full force and effect.

2. From and after the acceptance of the Franchise, it shall be unlawful for any person to construct, install or maintain within any street in the Town, or within any other public property of the Town, or within any privately owned area within the Town which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the Town, of the Town's official map or the Town's major thoroughfare plan, any equipment or facilities for distributing any television signals or radio signals through a System, unless a franchise authorizing such use of such street or property or areas has first been obtained.
- J. Emergency Use. In the case of any emergency or disaster, Grantee shall, upon request of the Town, make available its System and related facilities to the Town for emergency use during the emergency or disaster period.
- K. Construction. This Franchise shall be construed and enforced in accordance with the substantive laws of the State of Minnesota and without reference to its principals of conflicts of law.
- L. Captions. The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this Franchise.
- M. Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

EXHIBIT A

TECHNICAL STANDARDS FOR THE CABLE SYSTEM

1. The Cable System shall be designed, constructed, routinely inspected, and maintained to guarantee that the Cable System meets or exceeds the requirements of the most current editions of the National Electrical Code (NFRA 70) and the National Electrical Safety Code (ANSI C2). In all matters requiring interpretation of either of these codes, the City's interpretation shall control over all other sources and interpretations.
2. General Requirements. Grantee shall use equipment used in high-quality, reliable, modern Cable Systems of similar design.
3. General Description. The Cable System shall provide Subscribers with a technically advanced and reliable Cable System. The System shall have at least 440 MHz of bandwidth capacity, capable of delivering approximately 80 analog channels of programming. The System will be two-way active. The design will provide the benefits of proven 80-channel electronics while positioning the System for expansion of bandwidth and channel capacity as technology and future services develop.
4. Design. The design of the System shall be based upon a "Fiber to the node" architecture that will deliver the signals by fiber optics directly to each neighborhood.
5. Technical Standards. The System shall meet or exceed FCC requirements. In no event shall the System fall below the following standards:
 - a. The System shall be capable of meeting the following distortion parameters:
 1. Carrier to RMS Noise 48 dB
 2. Carrier to Second Order 53 dB
 3. Carrier to Cross Modulation 51 dB
 4. Carrier to Composite Triple Beat 53 dB
 - b. The frequency response of a single channel as measured across any 6 MHz analog channel shall not exceed +/- 2 dB.

The frequency response of the entire passband shall not exceed $N/10 + 2$ dB for the entire System where N is the number of amplifiers in cascade. The System shall be designed such that at a minimum all technical specifications of this Franchise Agreement are met.

ARTICLE 602: PUBLIC UTILITIES

Section 602.01: Purpose

The purpose of this Article is to provide minimal reasonable regulations as to the location and construction of public utilities facilities within any public easement, road easement or right-of-way within the Town of May.

Section 602.02: Words and Phrases Defined

The definitions contained in this Article shall apply to this Article. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement and the word "should" is a preferred requirement. The word "used" include the words "intended, arranged, or to be used or occupied."

- (1) Charged Pipeline. Any pipeline which is filled with natural gas.
- (2) Distribution System. All of the facilities, lines, pipes, equipment, and fixtures of a Utility which are designed for distribution of the Utility's services to more than one customer.
- (3) Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, ducts, fixtures, and necessary appurtenances owned or operated by an electric Utility for the purpose of providing electric energy for public use.
- (4) Natural Gas. A product in gaseous form designed and used for the purpose of combustion in furnaces and appliances, to supply energy for public or private consumption, and which is sold by Utility companies subject to the regulatory authority of the Minnesota Public Utilities Commission, including natural gas, manufactured gas, mixture of natural gas and manufactured gas or other forms of gas energy.
- (5) Pipeline. Any pipeline, above-ground or underground, which has been installed by any party for the purpose of transmitting natural gas, including mains and lines connecting mains to individual buildings.
- (6) Public Land. Land owned by the Town for park, open space or similar purpose, which is held for use in common by the public.
- (7) Public Way. All roads, streets, alleys, public right-of-ways, utility easements and public grounds of the Town to which it has the right to grant the use to a Utility.
- (8) Service Area. That portion of the Town where a gas Utility receives a conditional service area license to install and operate a distribution system.

- (9) Service Connection/Service Line. The connection and line from a Utility's distribution system to a single customer's dwelling or building.
- (10) Town Utility System. The facilities used for providing sewer or any other public Utility service owned or operated by the Town or agency thereof.
- (11) Utility. Any publicly or privately owned or operated system which publicly provides energy services (electric, natural gas, liquid petroleum, and other), communication services (telephone, cable TV, and other), or water and sewer services (potable water, sanitary sewer, storm sewer and others).

Section 602.03: All Utilities Subject to this Article

All Utilities operating or maintaining lines, facilities or equipment within a town road right-of-way or upon public land are subject to the regulations of this Article.

Section 602.04: Utility Construction in Road Cross-Section

All Utilities shall construct their lines in accordance with the cross-section detailed drawing for utility installation as approved by the May Town Board available upon request from the Town Clerk.

Section 602.05: Construction Permits

No Utility company shall open, excavate, or disturb the surface of any public ground or right-of-way for any purpose without first having obtained a construction permit from the Town Clerk. The Town Clerk shall require proof of workers' compensation insurance coverage from either the Utility or its subcontractor prior to issuance of any construction permit.

The Utility shall indemnify and hold harmless the Town against liability, claims and lawsuits of any kind, arising directly or indirectly from any act of the contractor, its agents, suppliers, employees or subcontractors in the course of the work.

A. Distribution System Permits.

1. Prior to construction of any lines, equipment, facilities, or other parts of a distribution system, a Utility shall first obtain a construction permit from the Town. The application for a permit shall be submitted in duplicate to the Town. The application shall include: a scaled area map showing the proposed location of the lines or equipment to be constructed; depictions and specifications for lines, cables, equipment or facilities to be installed; and a road cross-sectional schematic showing the proposed location of any buried lines or cables. The application shall be accompanied by a fee as found in Chapter 13 for Town expenses, including engineering fees.

2. The completed application shall be forwarded to the Town Engineer for review. The Town Clerk shall not issue the permit until the Town Engineer has approved the application in writing and until the Town has been reimbursed by the applicant for its actual expenses incurred in reviewing the application, including all professional consulting fees, including engineering fees, by the utility or they will be deducted from the escrow amount prior to the return of the escrow deposit.
 3. Construction shall not commence until the Utility has deposited a Letter of Credit or cash escrow with the Town, in an amount of 125% of the total cost of the restoration as estimated by the Town Engineer and held until released by the Town to assure that restoration will be completed equal to or better than the conditions which existed prior to the start of installation.
- B. Service Connection Permits. Prior to any construction or relocation and reconstruction of any Service Connection, a Utility shall first obtain a construction permit from the Town Clerk. The application shall be accompanied by a map showing the address and location of the service line to be installed or reconstructed. The Town Clerk may issue the permit upon receipt of the completed application. The purpose of the permit is to provide the Town with information regarding the location, time and extent of the construction or excavation activity. See Section 602.12(B).
- C. Repair or Maintenance Permits. Prior to any excavation or construction to repair or maintain any portion of a Distribution System, a Utility shall first obtain a construction permit from the Town Clerk. The application shall be accompanied by a map showing the location of the equipment or line to be repaired or excavated. The Town Clerk may issue the permit upon receipt of the completed application. The purpose of the permit is to provide the Town with information regarding the location, time and extent of the construction or excavation activity. See Section 602.12(B).
- D. Emergencies. A Utility may excavate or perform other work without a permit where an emergency exists requiring the immediate repair of its lines or facilities. Within three (3) working days after effecting emergency repairs, the Utility shall make application for the appropriate permit. For emergency repairs to a distribution system, the permit:
1. Shall include the Utility's certification that the repaired line has not been relocated;
 2. Shall include map(s) and schematic(s) to show the relocation of the repaired line or equipment.

Section 602.06: Restoration Work

After undertaking any work requiring the opening of any public way or public ground the Utility shall restore the same, including paving and its foundation, to as good condition as formerly existed, and shall maintain the same in good condition. The work shall be completed as promptly as weather permits, and if the Utility shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the public way or public ground in the said condition, the Town shall have, after demand to the Utility to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration at the expense of the Utility. The Utility shall pay to the Town the cost of such work done for or performed by the Town, including its administrative expense and overhead, plus ten percent (10%) additional as liquidated damages. This remedy shall be in addition to any other remedy available to the Town.

Section 602.07: Relocation of Utilities

- A. Relocation of Utilities in Public Ways. If the Town determines to vacate for a Town improvement project, or to grade, regrade, or change the right-of-way lines of any public way, or construct or reconstruct any utility system in any public way, it may order the Utility to relocate its facilities presently therein. The Town shall give the Utility reasonable notice of plans to vacate for a Town improvement project, or to grade, regrade, or change the line of any right-of-way or to construct or reconstruct any Town utility system. If a relocation is ordered within five (5) years of a prior relocation of the same facilities at Utility expense, the Town shall reimburse for non-betterment expenses on a time and material basis, unless a subsequent relocation is required because of the extension of a Town utility system to a previously unserved area. Service to previously unserved areas shall be at the Utility's expense. Nothing in this Article requires the Utility to relocate, remove, replace or reconnect at its own expense its facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the Town and is not reasonably necessary for the construction or reconstruction of a public way or Town utility system or other Town improvement. In no case shall the Town be liable to the Utility for failure to specifically preserve a right-of-way under Minn. Stat. 160.29.
- B. Relocation of Utility in Public Ground. The Town may require the Utility to relocate or remove its facilities from public ground upon a finding by the Town that the facilities have become or will become a substantial impairment of the public use to which the public ground is or will be located. The relocation or removal shall be at the Utility's expense. The provisions of this Paragraph "B" apply only to facilities constructed upon public ground in reliance on a service area license and a Utility does not, by this provision, waive its rights under a recorded easement document or prescriptive right in favor of the Utility.

Section 602.08: Relocation When Public Ground Vacated

The vacation of any public ground shall not deprive the Utility of the right to operate and maintain its facilities therein. Unless ordered under Section 602.07, the Utility need not relocate until the reasonable cost of relocating and the loss and expense resulting from such relocation are first paid to the utility. When the vacation is for the benefit of the Town in the furtherance of a public purpose, the Utility shall relocate at its own expense.

Section 602.09: Street Improvements, Paving or Resurfacing.

- A. The Town shall give the Utility reasonable written notice of plans for street improvements where paving or resurfacing of a permanent nature is involved. The notice shall contain the nature and character of the improvements, the streets upon which the improvements are to be made, the extent of the improvements and the time when the Town will start the work, and, if more than one street is involved, the order in which this work is to proceed. The notice shall be given to the Utility a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to allow the Utility to make any additions, alterations or repairs to its facilities the Utility deems necessary.
- B. In cases where streets are at final width and grade and the Town has installed underground sewer mains and service connections to the property line abutting the streets prior to a permanent paving or resurfacing of such streets, and the Utility's main is located under such street, the Utility may be required to install service connections prior to such paving or resurfacing, whenever it is apparent that service will be required during the five (5) years following the paving or resurfacing.

Section 602.10: Location of Facilities

- A. Location of Above-Ground Facilities. Above ground utilities shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over public ways. A permit to construct facilities on public grounds or public ways may be disallowed by the Town Board of Supervisors upon finding that the proposed facility constitutes a hazard in the right-of-way. A "hazard in the right-of-way" is any construction, at any location within the full width of the right-of-way, which because of position, siting and proximity to the traveled portion of the right-of-way and because of strength, density and mass of construction would be the kind of impediment to a motor vehicle traveling at the posted speed limit sufficient to cause bodily harm to vehicle passengers when impacted by said vehicle after it has left the traveled portion of the right-of-way. Upon such a finding, the Utility shall be required to construct its facility outside of the right-of-way. The Utility's construction, reconstruction, operation, repair, maintenance and location of above-ground facilities shall be subject to other reasonable regulations of the Town.
- B. Field Locations. The Company shall provide field locations for any of its underground facilities within a reasonable period of time on request by the Town.

The period of time will be considered reasonable if it compares favorably with the average time required by the municipalities in the same county to locate municipal underground facilities for the Utility.

- C. Licensee's Annual Report. The Utility company shall provide an annual revised Town map showing location of its distribution system in the Town.

Section 602.11: General Conditions Applicable to Service Area Licenses for Natural Gas Utilities

A. Indemnification.

1. The service area license shall indemnify, keep and hold the Town free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits or licenses, or the operation of the Utility's facilities located in the Town. The Town shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the Town's negligence as to the issuance of licenses or permits for, or inspection of, the Utility's plans or work. The Town shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Utility, and such performance is nevertheless ordered or directed by Town after notice of Utility's determination.
2. In the event a suit is brought against the Town under circumstances where this license condition applies, the Utility at its sole cost and expense shall defend the Town in such suit if written notice thereof is promptly given to the Utility within a period wherein the Utility is not prejudiced by lack of such notice. If the Utility is required to indemnify and defend, it will thereafter have control of such litigation, but the Utility may not settle such litigation without the consent of the Town, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Town and the Utility, in defending any action on behalf of the Town. The Town shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf.

- B. Adequate Supply. The service area licensee shall furnish and supply to the service area inhabitants an adequate supply of gas, as long as available, under such pressure and conditions as may be reasonably required under such rules and regulations as may be established by this Article, and the Minnesota Public Utilities Commission, or other such regulatory body as may hereinafter be established under the laws of the State of Minnesota and given jurisdiction thereof.

- C. Public Safety. By acceptance of its service area license, the licensee acknowledges that the Town may enact ordinances which affect the licensee's rights and duties with

respect to pipeline safety and construction, and acknowledges that where such public safety is a bona fide municipal concern, such ordinances shall effectively serve to amend this Article and the rights and duties contained herein. The licensee specifically consents to such amendments, even though they be unilateral in nature.

D. Assignment of Service Area Licenses. A licensee, upon notice to the Town, shall have the right and authority to assign all rights conferred upon it by this Article to any person. The assignee of such rights, by accepting such assignment, shall become subject to the regulations and conditions of this Article.

E. Review or Revocation of a Service Area License.

1. The Town Board may review a service area license upon the request of any person or upon its own initiative.
2. A service area license may be revoked or reduced in its area upon the Town Board making any one or more of the following findings:
 - (a) The licensee has failed to meet the general conditions of this Article or the specific conditions of its license;
 - (b) The licensee has failed to operate the Utility within the Town in accord with this Article; or
 - (c) Any just cause.

A violation of any condition set forth in a permit shall be a violation of this Article. Failure to correct said violation within thirty (30) days of written notice from the Town Board shall automatically terminate the permit. All costs incurred by the Town in reviewing the permit shall be the responsibility of the utility.

F. Application for Service Area License. Application for a service area license shall be made in writing to the Town Clerk and shall include such maps, schematics, diagrams and narrative descriptions as are necessary to describe or depict:

1. The existing distribution system;
2. Existing service connections;
3. The proposal for extension of the distribution system; and
4. A well-defined schedule and calendar for construction of the extension to the distribution system.

The application shall be accompanied by a non-refundable fee to defray a portion of the Town's costs for conducting a public hearing. (See Chapter 13 of Town Code).

- G. Expansion of Service Area. A service area licensee may make application to expand its service area in the same manner as an initial license application.

Section 602.12: Utility Permit Required; Application

- A. Permit Required. Prior to utility installation, within the town road right-of-ways, a utility company shall first obtain a Utility Permit from the Town.
- B. Permit Application. Application for the Utility Permit shall be made by completing a form provided by the Town. The permit shall contain the following information:
1. The name and address of the utility to be performing the installation.
 2. A general description of the work to be performed and the method used for placement.
 3. The location of the proposed utility installation and shown on a Utilities Placement Map.
 4. The proposed time frame for beginning and completing the work.
 5. Description of restoration work and any trimming.
- C. Restoration. Town road right-of-ways shall be restored to the same or better condition as they were immediately prior to the placement of the utility.
- D. Resident Complaints Against Utilities. Upon notification from the Utility company of completion of the project, the Town Clerk will put a notice of same in the Town legal newspaper. Any resident with a complaint regarding the installation or restoration may notify the Town Clerk who in turn will notify the Utility. The Utility will have thirty 30 days to correct this problem and notify the Town of its actions. If the problem is not resolved, to the Town's satisfaction, the Town shall use the escrow funds to correct the problem. All costs incurred by the Town for this procedure shall be paid by the Utility.
- E. Initial Service Area License Fees.
1. License fees shall be paid by the licensee to defray the Town's cost in granting a license and in administering the regulations of this Article. (See Chapter 13).
 2. The license fee for licenses awarded are due and payable to the Town of May by the licensees on January 1, of each year.

- F. Open Areas Not Described Within Any Licensed Service Area. The areas of the Town not described in any service area license are deemed open areas. Any Utility which is able to provide service to an open area may make application for a service area license or for expansion of an existing service area license.

Section 602.13 Miscellaneous Provisions

- A. Severability. If any portion of this Article is found to be invalid for any reason whatsoever, the validity of the rest of this Article shall not be affected.
- B. Penalty. Any person, firm, or corporation violating any provision of this Article and upon conviction thereof, shall be guilty of a misdemeanor and punishable by a fine not exceeding seven hundred dollars (\$700) or imprisonment for a term not exceeding ninety (90) days or both such fine and imprisonment in the discretion of the court.

ARTICLE 603: WIRELESS COMMUNICATION ANTENNAS AND CELL TOWERS

Section 603.01: Purpose

The purpose of this Section is to:

- A. Accommodate the communication needs of residents and businesses while protecting public health and safety;
- B. Minimize adverse visual effects of towers through careful design and siting standards;
- C. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
- D. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunications antennas to reduce the number of towers needed to serve the community.

Section 603.02: Definitions

- (1) Antennas. That portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. Antennas may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements.
- (2) High Power Transmission Line. A 69 kv or greater electric transmission line with towers a minimum of 75 feet in height.
- (3) Platted Land. Lands with legal descriptions described as lot, block, plat name.
- (4) Structure. Something built or constructed.
- (5) Tower. Any pole, spire, structure, microwave relay, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, or to serve as an antenna.
- (6) Tower Accessory Structure. A structure located at the base of the tower housing base receiving, transmitting and control equipment.

Section 603.03: Required Permits

The construction of a new tower in excess of 35 feet or the addition of a new antenna on an existing tower or building may be allowed following the issuance of a Conditional Use Permit pursuant to Section 704.04 of the Town Code and if conditions contained in this ordinance are met. In the event of a conflict between the provisions of this ordinance and Section 704.04, the more restrictive provision shall apply.

Section 603.04 : Nonconformities

Any existing tower which becomes non-conforming as a result of this ordinance may continue its use and additional antennas may be attached to the tower structure. If the tower needs to be replaced, it may be permitted so long as it is of the same type (guyed, self-support or monopole), same height or lower, same marking (lighting and painting) and it will be located within ten (10) feet of the tower to be replaced. The only permitted reasons for replacement of an existing, nonconforming tower will be to increase the number of antennas or to preserve the structural integrity of the tower. If a tower requires replacement for any other reason, such replacement tower would need to meet all of the standards of this ordinance. A non-conforming tower which is damaged by fire, flood, wind, earthquake or other calamity may be restored and the use of such tower or part thereof which existed at the time of such partial destruction may be continued or resumed, provided that the restoration is started within a period of one (1) year and is diligently pursued to completion, unless the damage to such tower or antenna is equal to fifty percent (50%) or more of the replacement costs thereof as determined by the building official, in which case the reconstruction shall conform to the provisions of this code.

Section 603.05: Modification

- A. A modification to any requirement of this ordinance may be sought by the applicant and heard by the Town Board in accordance with the procedures, but not the standards, set forth in Section 704.03 of the Town Code.
- B. The criteria for granting a modification under this section of the ordinance shall be: presentation of engineering data demonstrating that wireless services cannot be provided by the applicant to a specific area of May Township without the modification in addition to those standards applied under Section 704.03.

Section 603.06: Term of Permit and Revocation

- A. Towers are permitted with a Conditional Use Permit. The Conditional Use Permit shall remain in effect so long as the conditions contained in the permit are met.
- B. The grounds for revocation of a Conditional Use Permit shall be based on a finding that:
 - 1. The permittee has failed to comply with conditions of approval imposed; or
 - 2. The facility has not been properly maintained; or
 - 3. The facility is no longer in use and has not been in use for the previous 12 months.

Section 603.07: Other Requirements

- A. All rules and regulations of the FCC and FAA must be met and complied with.

- B. In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 120 days. Failure to do so will result in the Township completing the removal and site restoration and the Township's cost shall be assessed against the property and collected as a real estate tax. The Town Board may require the owner or operator of any tower to post adequate security toward the costs of removal of any tower and site restoration.
- C. No tower shall exceed a total of 199 feet in height.

Section 603.08: Districts

Antennas and towers are regulated differently depending on the zoning district in which the property is located. The following are the standards in each district:

A. Conservancy Districts (C).

The following are permitted with a Conditional Use Permit:

- 1. Antennas attached to an existing structure or tower and not extending more than 15 feet above the highest point of the structure or tower;
- 2. A free standing communication tower not exceeding 75 feet in height.
- 3. Antennas attached to an existing structure or tower exceeding 15 feet above the highest point of the structure or tower not to exceed a maximum total height of 75 feet.
- 4. A tower within the easement of a high power transmission line or within 50 feet of the easement on the same side of a road to a maximum height not to exceed a total of 199 feet in height.

B. Agricultural Districts (AG).

The following are permitted with a Conditional Use Permit:

- 1. Antennas attached to an existing structure or tower and not extending more than 15 feet above the highest point of the structure or tower.
- 2. A free standing communication tower not exceeding a total of 199 feet in height.
- 3. Antennas attached to an existing structure or tower exceeding 15 feet above the highest point of the structure or tower not to exceed a maximum total height of 199 feet.

4. A tower within the easement of a high power transmission line or within 50 feet of the transmission line easement on the same side of a road to a maximum height not to exceed a total of 199 feet in height.

C. Rural Residential Districts (RR).

The following are permitted with a Conditional Use Permit:

1. Antennas attached to an existing structure or tower and not extending more than 15 feet above the highest point of the structure or tower.
2. A free standing communication tower not exceeding a total of 199 feet in height.
3. Antennas attached to an existing structure or tower exceeding 15 feet above the highest point of the structure or tower not to exceed a maximum total height of 199 feet.
4. A tower within the easement of a high power transmission line or within 50 feet of the easement on the same side of a road to a maximum height not to exceed a total of 199 feet in height.

Section 603.09: Prohibitions

- A. No tower shall be over a total of 199 feet in height or within one mile of another tower regardless of municipal boundaries.
- B. A proposal for a new wireless service tower shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed tower cannot be accommodated:
 1. On an existing tower or structure; or
 2. On a tower that has been permitted by May Township (even though it may not yet be constructed); or
 3. On a tower whose application for a Conditional Use Permit is currently pending before May Township.
- C. No tower over 35 feet in height shall be located within 500 feet of any residential dwelling other than the dwelling on the parcel on which the tower is to be located.
- D. No tower over 35 feet in height shall be located closer than one-quarter (1/4) mile to the outside boundary of an existing or proposed county park identified in the Washington County Park Master Plan or a boundary of a state park.

- E. No tower over 35 feet shall be erected in an area one-half (1/2) mile West of the centerline of State Highway 95 to one (1) mile East of the centerline of State Highway 95 or one-quarter (1/4) mile from the centerline of State Highway 96 and County Roads 4, 15 and 21, unless it can be demonstrated through visual impact demonstration that the tower will be visually inconspicuous as viewed from the road on a year-round basis.
- F. No tower over 35 feet shall be erected within one-quarter (1/4) mile of the Saint Croix River or within one-quarter (1/4) mile of a DNR protected lake or river.
- G. No tower over 35 feet shall be erected on any property platted for residential purposes.
- H. No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to twenty-four (24) hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of thirty (30) days. These limits can be extended by the Town Board.
- I. Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.
- J. No antenna or tower shall have lights, reflectors, flashers, daytime strobes, steady night time red lights or other illuminating devices affixed or attached to it unless required by the FAA or FCC.
- K. No advertising or identification signs shall be placed on towers or antennas.
- L. In addition to the setback requirements stated in this article, all Cell Towers over 35 feet in height must adhere to the setback requirements for Accessory Buildings specified in Chapter 7.

Section 603.10: Performance Standards

- A. The minimum lot size for construction of a tower over 35 feet in height shall be ten acres.
- B. Towers located closer to a property line than a distance equal to the height of the tower shall be designed and engineered to collapse progressively within the distance between the tower and property line. The applicant for any tower shall submit written documentation explaining tower construction and possible failure and provide assurance that blowing or falling ice can be contained on the subject property. At a minimum, the tower shall comply with the minimum setback requirement of the zone in which it is located.

- C. A tower shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impacts of the tower shall be confined as much as possible to the property on which the tower is located.
- D. The tower location shall provide the maximum amount of screening for off-site views of the facility. The Zoning Administrator reserves the right to require creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- E. The height of a tower shall allow for the co-location of additional antennas as follows:
 - 1. Structures from 100 to 150 feet - one additional antenna
 - 2. Structures from 150 to 199 feet - two additional antennas

The plan and its co-location capacity shall be approved by a registered professional engineer.

- F. Structural design, mounting and installation of the antenna and tower shall be in compliance with manufacturers specifications. The plans shall be approved and certified by a registered professional engineer.
- G. In general, self-supporting towers (i.e. those without the use of wires, cables, beams or other means) are preferred. The use of a guyed tower is permitted for new tower construction if there is an aesthetic and/or antenna supporting capability advantage. Anchors for the guyed wires must meet underlying setback requirements.
- H. Associated base equipment must be located within a structure. The base of the tower and any accessory structures shall be landscaped where practical. Tower accessory structures shall be constructed of materials designed to minimize visibility to the neighborhood.
- I. The tower shall be a color demonstrated to minimize visibility unless otherwise required by FAA regulations.
- J. Metal towers shall be constructed of, or treated with, corrosive resistant material.
- K. If space is available on a tower, the tower owners shall, in good faith, lease space to other users so long as there is no disruption in the existing service provided by the tower's existing users or no negative structural impact upon the tower. If a dispute arises, and as a condition to any permit, May Township, at its discretion, reserves the right to act as arbiter in determining if a tower owner is acting in good faith in leasing to other tenants. In addition, May Township reserves the right to submit any dispute concerning leasing to other tenants to arbitration and to require the tower owner to participate in that arbitration.

- L. Generally, only one communication tower is permitted on a parcel of land. If in the opinion of the Planning Commission, a particular parcel is well suited for more than one communication tower, and the tower is proposed within 100 feet of the other tower, the additional tower may be allowed following the issuance of a Conditional Use Permit. All other standards contained in this ordinance must be met.
- M. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower from ground level to 12 feet above ground shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by an eight (8) foot high chain link fence with three strands of barbed wire angled out with a locked gate of like design. All buildings and improvements must be so fenced.
- N. Antenna and tower owners shall be required to conduct an annual inspection of their facilities to insure continuing compliance with this ordinance. A copy of the annual inspection report shall be provided to the Zoning Administrator. The town may inspect the installation at its discretion.
- O. Associated base equipment and buildings must be used exclusively for tower communication purposes and equipment and shall not be subject to the Dimensional and Lot Standards for Detached Accessory Building set forth at Section 705.05 of the Town Code.
- P. Associated buildings shall not exceed a total square footage of 360 square feet per building. Square footage shall be determined by measuring the inside dimension of the structure.

Section 603.11: Application - New Tower, Existing Tower/New Antenna

In addition to the submittal requirements stated elsewhere in this ordinance, applications for Conditional Use Permits for new towers and antennas shall be accompanied by the following information:

- A. A report from a qualified and licensed professional engineer which:
 - 1. Describes the tower height and design including a cross section and elevation;
 - 2. Certifies the tower's compliance with structural and electrical standards;
 - 3. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
 - 4. Describes the lighting to be placed on the tower if such lighting is required by the FCC or FAA;

5. Describes that the applicant will avoid causing destructive interference to co-located, previously established public safety communications;
 6. Specifies the distance to any DNR protected lake or river, the St. Croix River, a scenic road, and any boundary of a state or county park.
- B. Written acknowledgment by the landowner that he/she will abide by all applicable Conditional Use Permit conditions.
- C. The Zoning Administrator may, at their discretion, require visual impact demonstrations including mock-ups and/or photo montages; screening and painting plans; network maps; alternative site analysis; lists of other nearby telecommunication facilities; or facility design alternatives for the proposed tower.

ARTICLE 604: WIND ENERGY CONVERSION SYSTEMS (WECS)

Section 604.01: Purpose and Definition

The purpose of this section is to establish standards and procedures by which the installation and operation of WECS shall be governed within the Town of May. A WECS shall be defined as one tower with rotors and motor with one conversion generator.

Section 604.02: Application

One (1) wind conversion system tower and rotor per lot may be allowed as a conditional use within any zoning district of the Town, subject to the regulations and requirements of this Article, provided the property upon which the system is to be located is at least ten (10) acres in size.

Section 604.03: Declaration of Conditions

The Planning Commission may recommend and the Town Board may impose such conditions on the granting of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this section.

Section 604.04: Site Plan Drawing

All applications for a WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimension, displaying the following information:

- A. Lot lines and dimensions.
- B. Location and height of all buildings, structures, above ground utilities, wetlands, trees on the lot, including both existing and proposed structures and guy wire anchors.
- C. Existing and proposed setbacks of all structures located on the property in question.
- D. One half section aerial photograph or most current ASCS aerial photograph.

Section 604.05: Compliance With State Building Code

Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings, shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code. Drawings and engineering calculations shall be certified by a Registered Engineer.

Section 604.06: Compliance With National Electrical Code

WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code adopted by the Town of May.

Section 604.07: Design Standards

- A. Height. The permitted maximum height of a WECS shall be 110 feet. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.
 1. The base of a WECS must be no closer to any lot line than the height of the WECS as defined herein.
 2. The height of a WECS must comply with FAA Regulation Part 77 "Objects Affecting Navigable Air Space" and/or MnDOT Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation".
- B. Setbacks. No part of WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS shall not be located within thirty (30) feet of an above ground utility line except the service drop for the system.
- C. Rotor Size. All WECS rotors shall not have rotor diameters greater than 26 feet.
- D. Rotor Clearance. Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree.
- E. Rotor Safety. Each WECS shall be equipped with both a manual and automatic breaking device capable of stopping the WECS operation in high winds (40 mph or greater).
- F. Lightning Protection. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the Town of May.
- G. Tower Access. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
 1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 2. A locked anti-climb device shall be installed on the tower.

3. A tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
- H. Signs. WECS shall have one (1) sign, not to exceed two (2) square feet posted at the base of the tower and said sign shall contain the following information:
1. Warning high voltage.
 2. Manufacturer's name.
 3. Emergency telephone number.
 4. Emergency shutdown procedures.
- I. Lighting. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA Regulations Part 77 "Objects Affecting Navigable Air Space" and FAA Advisory Circular 70/7480-1F, September 1978 "Obstruction Marking and Lighting".
- J. Electromagnetic Interference. WECS shall be designed and constructed so as not to cause radio and television interference.
- K. Noise Emissions. Noise emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations, as amended.
- L. Utility Company Interconnection. No WECS shall be interconnected with an electrical utility company until the Utility Company has reviewed and made written comments upon it.
- M. Color of WECS. Manufacturers color shall not be altered and color must be either white, gray or blue.
- N. In addition to the setback requirements stated in this article, all WECS towers over 35 feet in height must adhere to the setback requirements for Accessory Buildings specified in Chapter 7.

Section 604.08: Inspection

The Town of May hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.

Section 604.09: Abandonment

Any WECS tower which is not operable for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

Section 604.10: Insurance

The WECS owner shall carry in full force and effect liability insurance in the amount of \$500,000.00 and shall provide a copy of said policy to the Town.

Section 604.11: Violation

Any person violating the provisions of this Article shall be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense and shall be enforced accordingly.

Chapter 7

ZONING

ARTICLE 701: INTENT AND PURPOSE

Section 701.01: General Purposes

The general purpose of this Code is to regulate the use of land in the Town of May through the establishment of zoning districts and including the regulation of size, location, construction and use of buildings and structures, limitations on density of population by repealing existing zoning ordinances and provision for gradual elimination of non-conforming uses, buildings and structures; all for the purpose of promoting the public health, safety, order, convenience and general welfare of the citizens of the Town of May.

The general intent of this code is to provide for the orderly growth and renewal of the Town, to protect and conserve its natural resources, its ecological systems, and its economic stability by fostering appropriate land use, so as to preserve and promote the public health, safety and general welfare.

Section 701.02: Specific Purposes

- A. It is hereby determined by the Town Board that in order to accomplish the general purposes of this code as set forth in Section 701.01 above, it is necessary and proper to establish and enforce the regulations contained in this code for the following specific purposes:
1. To stage development to coincide with the availability of necessary public services.
 2. To divide the Town into districts, providing for and regulating therein the location, construction, reconstruction, alteration and use of buildings, structures and land for agricultural, rural, residential and other specific uses.
 3. To protect the character and maintain the integrity of the Town, and prohibit uses, buildings or structures which are incompatible with the character of development in such areas.
 4. To provide adequate light, air, privacy and convenience of access to property.
 5. To limit congestion in public streets and to foster public safety and convenience in travel and transportation.

6. To provide protection against fire, explosions, obnoxious fumes and other hazards in the interest of public health, safety and comfort.
7. To prevent the destruction or improvident exploitation of Town resources and to prevent environmental pollution.
8. To preserve the value of land and buildings throughout the Town.
9. To provide for the gradual and equitable elimination of those uses of land, buildings and structures, and of those buildings and structures, which do not conform to the standards for the area in which they are located and which may adversely affect the development and the value of property in such areas.
10. To protect and preserve economically viable agricultural land.
11. To provide for the administration and enforcement of this code; to provide for amendments; to prescribe penalties for violation of such regulations; and to define and limit powers and duties of the administrative officers, the Board of Adjustment and Appeals, the Planning Commission, and the Town Board in relation to the Zoning Code.
12. To provide for the wise use and conservation of energy resources.
13. To support and enforce the goals and policies of the Comprehensive Plan.

Section 701.03: Non-Specified Uses Are Prohibited

- A. Where a land use is stated as a permitted, accessory or conditional use in any zoning district, that use shall not be permitted in any other zoning district where it is not expressly allowed as a permitted, accessory or conditional use.
- B. Where a land use is not expressly stated as a permitted, accessory or conditional in any zoning district, that use shall not be permitted.
- C. Where a land use is not specifically stated as a permitted, accessory or conditional use in any of the zoning districts, the Town Board, with the advice of the Planning Commission, shall determine the appropriate zoning classification for the use, if any. In making such a determination, consideration will be given to the compatibility of the use with the purposes of the various zoning areas, the compatibility of the use with other stated uses regarding various zoning districts, and other matters that may affect the public health, safety and welfare.

ARTICLE 702: DEFINITIONS

Section 702.01: Definitions

For the purposes of the Code, certain words and phrases are defined as follows:

- (1) Accessory Building. A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purposes of which is clearly incidental to that of the principal building (See Section 705.05).
- (2) Accessory Use. A use incidental or subordinate to the principal use of the same land.
- (3) Agriculture. The use of land for the growing and/or production of agricultural crops, livestock, and livestock products for the production of income including but not limited to the following:

Crops such as: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum and sunflowers. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, buffalo, poultry, game birds and other animals including ponies, deer, rabbits and mink. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey. (Amended by Ord. 2012-02, Effective 2/16/12)
- (4) Agricultural Building. A structure on agricultural land as defined in "Farm/Rural" of this Section, designed, constructed and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.
- (5) Animals, Domestic Pets. Dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or non-domestic, such as bears, lions, wolves, ocelots and similar animals shall not be considered domestic pets.
- (6) Animals, Domestic Farm. Cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food producing purposes.
- (7) Animal Unit. A unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.
- (8) Application. The documents and written material by which a property owner justifies a request for a Building Permit, Zoning Amendment, Conditional Use Permit, Variance, Appeal, or other request for approval, relief or consideration, which shall include all information on an application form provided by the Town Clerk.

- (9) Area, Net Developable. Those lands within a development parcel remaining after the deletion of flood plains, wetlands, slopes greater than twelve percent (12%) and unbuildable easements or rights-of-way.
- (10) Attorney. The Town Attorney.
- (11) Automobile Service Uses. Those uses catering to the traveling public. These include repair garage, seasonal produce sales, boat sales, rental services and restaurants.
- (12) Automobile Repair. The replacement of any part of repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of seven thousand (7,000) pounds gross vehicle weight.
- (13) Reserved.
- (14) Basement. A portion of a building between floor and ceiling, located partly above and partly below grade, and having one-half (1/2) or less of its floor to ceiling height below the average grade of the adjoining ground. Earth sheltered houses that meet all other requirements of the Building Code shall not be considered basements.
- (15) Reserved.
- (16) Berm. An earthen mound or series of mounds used as a buffer between two uses of land.
- (17) Building. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or property of any kind. When any portion thereof is completely separated from every other part thereof by six or more feet, each portion of such building shall be deemed as a separate building.
- (18) Building Code. The Minnesota State Building Code. See Chapter 3.
- (19) Building Height. The vertical distance from the grade to the coping of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof or to the mean distance of the highest gable on a pitched or hip roof.
- (20) Building Inspector. The officer or other designated authority, certified by the State of Minnesota under Minnesota Statutes 168.63, charged with the administration and enforcement of the State Building Code, or his duly authorized representative.
- (21) Building Setback. The minimum horizontal distance between the building and the lot line.

- (22) Building Setback Line. A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluffline or a high water mark or line, behind which buildings or structures must be placed.
- (23) Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (24) Carport. An automobile shelter having one (1) or more sides open.
- (25) Carriage House. A suite of rooms or a room in an existing accessory building which was originally built to house domestic employees, arranged and intended for a place of residence of a single family.
- (26) Cellar. That portion of the building having more than one-half (1/2) of the clear floor to ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the Building Code shall not be considered cellars.
- (27) Certificate of Compliance. An administrative form and associated process that allows a land owner to apply for modest setback relief for an accessory building, and for other approvals or uses as may be defined by the Town under the Certificate of Compliance Article 311 of this Code.
- (28) Certificate of Occupancy. See Article 307 of the Town Code.
- (29) Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including but not limited to streams, rivers, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gullies, ravines or washes; and including any area adjacent thereto which is required to carry and discharge the regional flood.
- (30) Channel Flow. That water which is flowing within the limits of a channel.
- (31) Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
- (32) Cluster Development. A pattern of subdivision development which places detached housing units into compact groupings while providing a network of commonly owned or dedicated open space, pursuant to density standards.
- (33) Club or Lodge. A non-profit association or persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.
- (34) Commercial. See Section 708.04 and Article 402.

- (35) Commercial Food Producing Farm Operations. See "Farm/Rural" and Section 702.01, Definitions.
- (36) Community. The governmental unit which has adopted this Code, except where otherwise indicated.
- (37) Comprehensive Plan. The policies, statements, goals and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance and maps which constitute the guide for the future development of the community or any portion of the community.
- (38) Conditional Use. A land use or development as defined by Code that may not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning code exist, (2) the use of development conforms to the comprehensive land use plan of the community and (3) is compatible with the existing neighborhood.
- (39) Conditional Use Permit. A permit, issued by the Board in accordance with procedures specified in this Code, as a flexibility device to enable the Board to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.
- (40) Curb Level. The grade elevation of the curb in front of the center of the building. Where no curb has been established, the Town consulting engineer shall determine a curb level or its equivalent for the purpose of this Code.
- (41) Day Care - Home. A family dwelling in which foster care, supervision and training for children of school or pre-school age is provided by a member of the family residing in the dwelling.
- (42) Decibel. The unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the "Standard on Sound Level Meters of the USA Standards Institute."
- (43) Deposit. Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, flood plains or wetland.
- (44) Depth of Lot. The horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.
- (45) Depth of Rear Yard. The horizontal distance between the rear building line and the rear lot line.

- (46) Disposal Area, On-Site Sewage Treatment. See Chapter 3, Article 305, Sanitary Sewer Disposal Ordinance.
- (47) Diversion. A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream to a more suitable or desirable outlet location.
- (48) Division. The division of a parcel of land into two or more Lots.
- (49) Dog Kennel. Any place where four (4) dogs or more over six (6) months of age are boarded, bred and/or offered for sale, except a veterinary clinic.
- (50) Domestic Farm Animal Building. An accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials.
- (51) Drainage System. Any natural or artificial feature or structure used for the conveyance, drainage, or storage of surface and/or underground water, including, but not limited to, streams, rivers, creeks, ditches, channels, conduits, gullies, ravines, washes, lakes or ponds and structures such as culverts, drainage tile, dams, bridges and water storage basins.
- (52) Draining. The removal of surface water or groundwater from land.
- (53) Dredging. The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.
- (54) Reserved.
- (55) Driveway. A private path for vehicular access to a public road, which is wholly located on the Lot which is afforded access.
- (56) Dwelling. A building of one (1) or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boarding houses, churches nor trailers, tents, cabins or trailer coaches. (Also see Dwelling Unit.)
- (57) Dwelling - Attached. A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.
- (58) Dwelling - Detached. A dwelling which is entirely surrounded by open space on the same lot.

- (59) Dwelling - Duplex or Two Family. A residential building containing two (2) complete dwelling units.
- (60) Dwelling - Single. A residential building containing one (1) detached dwelling unit.
- (61) Dwelling - Seasonal. A residential building not capable of year-round occupancy due to non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems.
- (62) Dwelling Unit. A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
- (62a) Educational Retreat Center. A non-profit center which is designed, maintained and intended to serve the principal use of providing short-term visitors with a facility to engage in exposure and study of historic and/or natural resources of the Town including academic camps, historic structures and scenic areas, and the provision of a short-term retreat facility, and not involving the sale or manufacture of goods, or the sale or provision of services, or other commercial activity. (Amended Ord. 2014-05, Effective 11/22/14)
- (63) Engineer. The Town Engineer.
- (64) Essential Services - Governmental Uses, Buildings and Storage. Governmental services such as office buildings, garages, temporary open space, open space, open storage when not the principal use, fire and police stations, recreational areas, or other essential uses proposed by federal, state, county, local, special districts and school districts, except that schools shall not be permitted under this provision.
- (65) Essential Services - (Public Utility Uses). Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories.
- (66) Essential Services - (Public Utility Uses, Transmission Services, Buildings and Storage). Transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption or other similar equipment and accessories.
- (67) Exterior Storage (Includes Open Storage). The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (68) Extraction. The removal of more than 100 cubic yards of sand, gravel, soil, peat, or other earthen deposits from a Lot, except when such removal is part of construction under an approved Building Permit or Conditional Use Permit.

- (69) Family. An individual, or two (2) or more persons each related by blood, marriage, adoption or foster care arrangement, living together as a single housekeeping unit, or a group of not more than four (4) persons not so related, maintaining a common household, exclusive of servants.
- (70) Farm, Rural. A rural farm is a commercial food producing use on ten (10) or more contiguous acres and is defined under a portion of Minnesota Agricultural Property Tax Law (Green Acres Law) Minn. Stat. 273.111, Subd. 6 (2).
- (71) Farmstead. A group of buildings and adjacent service areas which supports the functions of a farm. Structures may include but are not limited to homes, barns, machinery sheds, granaries, pump houses, chicken coops, and garages.
- (72) Farm Dwelling. A Single Family Dwelling located on a Farm which is used or intended for use by the Farm's owner, a relative of the owner, or a person employed thereon.
- (73) Feed Lot. The place of housing or feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals or where confinement of animals prevents adequate vegetation from being established to avert erosion and pollution.
- (74) Fence. A partition, structure or gate erected as a dividing marker, visual or physical barrier, or enclosure.
- (75) Fill. Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed or transported and shall include the conditions resulting therefrom.
- (76) Final Plat. A drawing or map or an approved subdivision, meeting all requirements of the Subdivision Code and in such form as required by the Town for purposes of recording.
- (77) Flood. A temporary rise in stream flow or stage which results in inundation of the areas adjacent to the channel.
- (78) Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specific number of years.
- (79) Flood Fringe. That portion of the flood plain outside of the floodway.

- (80) Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
- (81) Flood Profile. A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.
- (82) Floodway. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.
- (83) Floor Area. The gross area of the main floor of a residential building measured in square feet exclusive of an attached garage, breezeway or similar attachment.
- (84) Floor Area - Gross. The sum or the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area is finished.
- (85) Floor Area Ratio. The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.
- (86) Floor Plan - General. A graphic representation of the anticipated use of the floor area within a building or structure.
- (87) Frontage. That boundary of a lot which abuts a public street or private road.
- (88) Garage - Private. A detached one-story accessory building, or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers or farm trucks.
- (89) Grade. (Adjacent Ground Elevation). The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- (90) Grading. Changing the natural or existing topography of land.
- (91) Guest Room. A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.
- (92) Hazardous Buildings or Hazardous Property. Any building or property which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

- (93) Home Occupation. Any gainful occupation or profession conducted in the home by an occupant of the home which is a use that is clearly incidental to the use of the home for residential purposes.
- (94) Horticulture. The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.
- (95) Impervious Surface. An artificial or natural surface through which water, air, or roots cannot penetrate.
- (96) Institutional Housing, Residential Care Facility, or Community Residence. A facility licensed by the State of Minnesota, providing residential and habilitative services to persons with developmental disabilities. These state licensed residential care facilities or housing with services registered under MN Stat. 144D must serve six or fewer persons and are regulated in the same manner as a single family residence. (Amended Ord. 2014-05, Effective 11/22/14)
- (96a) Interim Use. A temporary use of land that may continue until a particular date, or until the occurrence of a particular event, or until zoning regulations no longer allow the use.
- (96b) Interim Use Permit. A permit issued in accordance with provisions of this Code, and more specifically Article 709, as a flexible device to enable the Town Board to assign time limits and conditions to a proposed use, after consideration of current or future adjacent land uses.
- (97) Intermittent. A stream or portion of a stream that flows only in direct response to precipitation.
- (98) Irrigation System. Any structure or equipment, mechanized or otherwise, used to supply water for agriculture or horticulture, including but not limiting to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.
- (99) Reserved.
- (100) Kenel, Small Business. Is as defined at Section 501.01 of this code.
- (101) Kenel, Private. Is as defined at Section 501.01 of this code.
- (102) Land Alteration. The excavation or grading of land involving movement of earth and materials in excess of one hundred (100) cubic yards.
- (103) Land Reclamation. The reclaiming of land by depositing material so as to elevate the grade. Depositing a total of more than fifty (50) cubic yards of material per lot or parcel, either by hauling in or regrading the area.
- (104) Landscaping. Planting trees, shrubs and turf covers such as grasses and shrubs.

- (105) Lean-To. A structure attached to any side of an accessory building, having a roof, which is attached to the accessory building, and without walls.
- (106) Livestock. Domestic farm animals including, but not limited to, cattle, hogs, horses, bees, sheep, goats, chickens and other animals and fowl commonly kept for food production.
- (107) Loading Space. A space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.
- (108) Local Government Buildings. Public structures which house public facilities or services including but not limited to town halls, police stations, fire stations, libraries and highway maintenance facilities, but excluding schools.
- (109) Lodging Room. A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.
- (110) Lot. A parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the Office of the Washington County Recorder or Registrar of Titles or used by the County Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- (111) Lot Area. The area of a horizontal plane within the lot lines.
- (112) Lot Area, Minimum Per Dwelling Unit. The minimum number of square feet or acres of lot area required per dwelling unit.
- (113) Lot - Buildable. A lot which meets or exceeds all requirements of the Town land use and development codes without the necessity of variances.
- (114) Lot - Corner. A lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
- (115) Lot Depth. The mean horizontal distance between the front and rear lines of a lot.
- (116) Lot - Interior. A lot other than a corner lot, including through lots.
- (117) Lot Line. A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way shall be the lot line.
- (118) Lot Line - Front. That boundary of lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the

- owner. In the case of a corner lot in a non-residential area, the lot shall be deemed to have frontage on both streets.
- (119) Lot Line - Rear. That boundary of a lot which is opposite to the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- (120) Lot Line - Side. Any boundary of a lot which is not a front lot line or a rear lot line.
- (121) Lot - Through. Any lot other than a corner lot which abuts more than one (1) street. On a through lot, all the street lines shall be considered the front lines for applying this Code.
- (122) Lot - Through or Double Frontage. As defined in the County Subdivision Code, and referring to a lake or stream frontage lot having a public road as one lot line and a water body at the opposite lot line.
- (123) Lot Width. The horizontal distance between the side lot lines of a lot measured at the setback line.
- (124) Manufacturing - General. All manufacturing, compounding, processing, packaging, treatment or assembly of goods or materials which would involve a risk of offensive or dangerous noise, odor or pollution beyond the lot on which the use is located. Such uses include, but are not limited to the following: sawmill; commercial feedlots and electric power generation facilities.
- (125) Manufacturing - Limited. All compounding, processing, packaging, treatment or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to the following: lumber yard, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yard, food and non-alcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles and used auto parts.
- (126) Manure. Any solid or liquid containing animal excreta.
- (127) Reserved.
- (128) Mean Flow Level. The average flow elevation of a stream or river computed as the mid-point between extreme low and extreme high water.
- (129) Mining. The extraction of sand, gravel, rock, soil or other material from the land and the removal thereof from the site. For the purposes of this code, mining shall not

- include the removal of materials associated with the construction of a building, the removal or excess materials in accordance with approved plats or utility highway construction, minor agricultural and sod removal.
- (130) Mobile Home. A single family detached dwelling designed for year-round occupancy, constructed at a factory or assembly plant and drawn to the site on a permanently attached undercarriage and wheels. "Mobile Home" shall not include "Trailer" as herein defined, nor shall it include modular or prefabricated dwelling units which meet or exceed the requirements of the Minnesota Building Code.
- (131) Modular or Prefabricated Home. A non-mobile dwelling unit for year-round occupancy, constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the Minnesota State Building Code.
- (132) Reserved.
- (133) Reserved.
- (134) Natural Drainage System. All land surface areas which by nature of their contour configuration, collect, store and channel surface water run-off.
- (135) Natural Obstruction. Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a non-human cause.
- (135a) Nature Center. An educational or recreational use oriented to utilizing the outdoor character of an area for education and passive forms of recreation related to the natural environment of the area, including nature preserves, wildlife sanctuaries, special gardens, arboretums, natural history exhibits, interpretive centers, and associated facilities, activities, and programming. (Amended Ord. 2014-05, Effective 11/22/14)
- (136) Noise - Ambient. The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.
- (137) Noise - Nuisance. Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value.

- (138) Normal High Water Mark. A continuous mark of reference at an elevation where land and water meet for some period of record; is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- (139) Nominal Parcel. A parcel not reduced by more than ten percent (10%) due to road or railroad right-of-way dedication.
- (140) Non-Conforming Use or Lot. Any legal use or lot already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written. (See Article 703).

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- (141) Noxious Matter. Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.
- (142) Nursery - Day. A use where care is provided for three (3) or more children under kindergarten age for periods of four (4) hours or more per day for pay.
- (143) Nursery - Landscape. A business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without.
- (144) Obstruction Ordinary High Water Mark. Any storage of material, or equipment, any dam, wall, wharf, embankment, levee, road, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, deposit, clearing of trees or vegetation, structure or matter in, along, across, or projecting, in whole or in part, into any flood plain.
- (145) Physically Handicapped. Encompasses those orthopedic, incoordinative sight, and hearing disabilities that culminate in the significant reduction of mobility, flexibility, coordination, or perceptiveness and that, singly or in combination, interfere with the individual's ability to live and function independently; that are not the result of the normal aging process; and that are considered to be chronic conditions.
- (146) Official Control. Legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances or codes all or any part of the general objectives of the comprehensive plan. Such official controls may included, but are not limited to ordinances or codes establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps.
- (147) Official Map. A map adopted in accordance with the provisions of Minn. Stat. 394.361.
- (148) Office Uses. Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. Including, but not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.
- (149) Open Sales Lot. Lands devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.
- (150) Open Storage. Storage of any material outside of a building.
- (151) Owner. Includes all persons interested in a property as fee simple owner, life estate holder, encumbrancer or having a legal interest therein.

- (152) Parking Space. A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile.
- (153) Pedestrian Way. A public or private right-of way across or within a block or tract, to be used by pedestrians.
- (154) Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.
- (155) Person. Any person, corporation or association, including governmental agencies and political entities.
- (156) Planned Unit Development. A tract of land developed as a unit rather than as an individual development wherein two or more buildings may be located in relationship to each other rather than to lot lines with regard to use, location and in accordance with definite requirements as well as provisions agreed to between the Town and owner.
- (157) Planning Advisory Commission or Planning Commission. The duly appointed planning and zoning advisory commission of the Town.
- (158) Planning Agency. A planning commission or department, however created, or the office of the planning or zoning director or inspector of the office of any official designated as such planning or zoning director or inspector, together with any staff members, employees or consultants of such commission, department, director, inspector or official.
- (159) Principal Structure or Use. One which determines the predominant use as contrasted to accessory use or structure.
- (160) Property Line. The legal boundaries of a lot.
- (161) Protective or Restrictive Covenant. A contract entered into between private parties and or the Town which constitutes a restriction of the use of a particular parcel of property.
- (162) Public Land. Land owned and/or operated by a governmental unit, including school districts.
- (163) Recreation Equipment. Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty-five (25) feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or

structures, but not including tree houses, swimming pools, play houses exceeding twenty-five (25) square feet in floor area or sheds utilized for storage equipment.

- (164) Recreational Use or Area. Recreational facilities, services, equipment, or uses which may include water bodies and accessory buildings maintained for active or passive recreation including, without limitation to: parks, playgrounds, nature trails, bridle paths, beaches, campsites, ski and snowmobile trails, canoe routes, picnic grounds, nature areas, game farms, fish hatcheries, together with necessary loading and parking areas, but excluding a stadium, arena, bowling alley, commercial swimming pool, or other recreational activity for which a structure is required to house the principal use. (Amended Ord. 2014-05, Effective 11/22/14)
- (165) Reserved.
- (166) Recreation Vehicle. Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications: (a) is not used as the permanent residence of the owner or occupant; (b) is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities; (c) is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities; (d) examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained self-propelled truck chassis mounted vehicles providing living accommodations.
- (167) Recreation Vehicle Parks. A park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined herein, and upon which said recreation vehicles are parked. The term "Recreation Vehicle Park" shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the park and its facilities or not.
- (168) Required Yard. A yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.
- (169) Research. Scientific research and quality control, conducted in accordance with the provisions of this Code.
- (170) Resort. Any structure or group of structures containing more than two (2) dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service, boat landing and rental, recreational area and equipment and similar uses normally associated with a resort operation.

- (171) Retail Business Uses. Stores and shops selling personal services or goods for final consumption.
- (172) Riding Stable, Private. Stables, barns, and facilities for the keeping and riding of horses, both indoor and outdoor, as an Accessory Use to a Single Family Dwelling or a Farm Dwelling.
- (173) Riding Stable, Public. Stables, barns, and facilities for the keeping and riding of horses, both indoor and outdoor, operated as a public livery or boarding stable, or other commercial recreational use, whether as an Accessory Use or the Principal Use on the lot.
- (174) Screening. Screening includes earth mounds, berms or ground forms; fences; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object throughout the year.
- (175) Setback. The minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by this Code. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.
- (176) Sign. A display, illustration, structure or device which directs attention to an object, product, place, activity, person institution, organization or business.
- (177) Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- (177a) Solar Energy System. A device or structural design feature intended for the collection, storage, and distribution of solar energy for heating, cooling, electricity generation, or other such use. (Amended Ord. 2016-05, Effective 12/18/16)
- (177b) Solar Energy System, Building Mounted. A solar energy system that is an integral part of a principal or accessory building and/or attached to the exterior of the building. (Amended Ord. 2016-05, Effective 12/18/16)
- (177c) Solar Energy System, Ground Mounted. A freestanding solar energy system mounted directly to the ground using a rack or mounting poles rather than being mounted on a building. (Amended Ord. 2016-05, Effective 12/18/16)
- (178) Storage Building. A one-story accessory building used or intended for the storage of farm or garden equipment, motor vehicles, recreational vehicles, boats, tractors and trailers.

- (179) Story. That portion of a building included between the surface of any floor and the surface of the floor next above. A finished basement shall be counted as a story and a cellar shall not be counted as a story.
- (180) Street. A public right-of-way which affords a primary means of access to abutting property.
- (181) Street - Collector. A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.
- (182) Street - Intermediate or Minor Arterial. A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- (183) Street - Local. A street intended to serve primarily as an access to abutting properties.
- (184) Street Pavement. The wearing or exposed surface of the roadway used by vehicular traffic.
- (185) Street Width. The width of the right-of-way measured at right angles to the centerline of the street.
- (186) Structure. Any construction consisting of one or more parts joined or erected in a definite form and having a temporary or permanent location on the ground.
- (187) Structural Alteration. Any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.
- (188) Subdivision. A described tract of land which is to be or has been divided into two (2) or more lots or parcels for the purposes of transfer of ownership, building development or for tax assessment purposes. The term includes re-subdivisions and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.
- (189) Storage or Tool Shed. A one-story accessory building of one hundred twenty (120) square feet gross area or less.
- (190) Reserved.
- (191) Use - Accessory. A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.
- (192) Use - Open. The use of land without a building or including a building incidental to the open use.

- (193) Use - Conditional. See "Conditional Use".
- (194) Use - Principal. The predominant purpose or activity for which the land, Structure or Building thereon is designed, arranged, or intended or for which it is occupied or maintained.
- (195) Usable Open Space. A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute useable open space.
- (196) Variance. A modification of or variation from the provisions of this Chapter consistent with State Statutes, as applied to a specific property and granted pursuant to the standards and procedures of this Chapter, except that a variance shall not be used for modifications of the allowable uses within a district and shall not allow uses that are prohibited. (Amended by Ord. 2013-05, Effective December 13, 2013)
- (197) Vehicle Repair. General repair, rebuilding or reconditioning of engines motor vehicles or trailers, including body work, framework, welding and major painting services.
- (198) Veterinary. Those uses concerned with the diagnosis, treatment and medical care of animals.
- (199) Warehousing. The storage, packing and crating of materials or equipment within an enclosed building or structure.
- (200) Waterbody. A body of water (lake, pond) in a depression of land or expanding part of a river, or an enclosed basin that holds water and surrounded by land.
- (201) Watercourse. A channel or depression through which water flows such as rivers, streams, or creeks, and may flow year-round or intermittently.
- (202) Waterfront Uses (Residential). Boat docks and storage, fish house, fish cleaning, water recreation equipment and other uses normally incidental to a lakeshore residence, provided such uses are for the exclusive use of the occupants and nonpaying guests.
- (203) Watershed. The area drained by the natural and artificial drainage system, bounded peripherally by a ridge or stretch of high land dividing drainage area.

- (204) Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:
- (a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrubland, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S., 1956).
 - (b) Mineral soils with gray horizons or organic soils belonging to the Histosol order (peat and muck).
 - (c) Soil which is water logged or covered with water at least one week during the growing season.

Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and properly, and may be shallow waterbodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

- (205) Wholesaling. The selling of goods, equipment and materials by bulk to another person who in turn sells the same to customers.
- (206) Yard. The open space on an occupied lot which is not covered by any structure.
- (207) Yard - Front. A yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.
- (208) Yard - Rear. A yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.
- (209) Yard - Required. A yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.
- (210) Yard - Side. A yard between the side line of the lot and the nearest building line.
- (211) Zoning District. An area or areas within the Town in which the regulations and requirements of this Chapter are uniform.

ARTICLE 703: GENERAL PROVISIONS; NON-CONFORMING USES

Section 703.01: Application of this Article

- A. Application Generally. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure, or part thereof, shall be occupied or used unless in conformity with regulations specified in this Code for the district in which it is located.
- B. Application of Existing Structures. This Code shall not apply to existing buildings and structures, nor to the existing use of any building, structure or land to the extent such building, structure or use lawfully existed on the effective date of this Code. However, this Code shall apply to any change in use, alteration, extension or movement of a building or structure, and to any change in the use of land subsequent to the effective date of this Code.

Section 703.02: Non-Conforming Uses, Buildings and Structures

- A. Purpose. It is the purpose of this Code to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. The Zoning Code establishes separate districts, each or which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Code that all non-conforming uses shall be eventually brought into conformity.
- B. Definitions of Non-Conforming Uses, Buildings and Structures.
 - (1) "Non-Conforming Use" means any lawful use of land or any lawful use of a building or structure existing on the effective date of this Code, or any amendment thereto, which use does not conform with the regulations for the district in which it is located after the effective date of this Code or such amendment thereto.
 - (2) "Substandard Building" or "Substandard Structure" means any building or structure lawfully existing on the effective date of this Code or any amendment thereto which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this Code or such amendment.
- C. Preservation of Non-Conforming Uses. Except as hereinafter provided in this Section, the lawful use of land or the lawful use of a building or structure existing on the effective date of this Code or on the effective date of any amendment thereto may

be continued although such use does not conform to the provisions of this Code, except as otherwise provided in this Section 703.01.

- D. Preservation of Dimensionally Substandard Buildings or Structures. Except as hereinafter provided in this Section, buildings or structures lawfully existing on the effective date of this Code or on the effective date of any amendment thereto may be maintained although such building or structure does not conform to the dimensional standards of this Code, but any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and meets at least ninety percent (90%) of the minimum setback requirements, but such alteration or improvement shall conform to all of the provisions of this Code and shall not increase the existing substandard square footage.
- E. Unlawful Uses, Buildings and Structures. No unlawful use of property existing on the effective date of this Code or any amendment thereto nor any building or structure which is unlawfully existing on such date shall be deemed a non-conforming use or a non-conforming building or structure.
- F. Permit Holders and Permit Applicants. Any non-conforming structure that is ready for or under construction on the effective date of this Code or any amendment thereto may be completed and occupied in accordance with the requirements of any valid building permit issued therefore prior to such effective date.
- G. Change of Use With Approval of the Town Board. A non-conforming use, all or partially conducted in a building or buildings, may be changed to another non-conforming use only upon determination by the Town Board, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings that is the use it is to replace. In determining relative "detriment", the Board shall take into consideration, among other things: traffic generated; nuisance characteristics, such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation.
- H. Restoration of Non-Conforming Buildings or Structures. A non-conforming building or structure which is damaged or destroyed by fire, flood, wind, earthquake or other calamity may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided that the restoration is started within a period of one (1) year and is diligently pursued to completion, unless the damage to such building or structure is equal to fifty percent (50%) or more of the replacement cost thereof (as determined by the Building Official), in which case, the reconstruction shall conform to the provisions of this Code.

- I. Abandonment of Use. When any non-conforming use of land or of a building or structure is abandoned for a period in excess of one (1) year, such land, building or structure shall, thereafter, be used only as provided by this Code.

ARTICLE 704: ADMINISTRATION

Section 704.01: Zoning Administrator

- A. Office Established. The Office of the Zoning Administrator is hereby established; the Zoning Administrator shall be appointed by the Town Board and serve at its pleasure.
- B. Duties of the Zoning Administrator. The Zoning Administrator shall enforce the provisions of this Code as provided herein; in addition to the duties and powers of the Zoning Administrator under this Code, express or implied, and shall have the duty and power to:
1. Issue permits required by the Zoning Code.
 2. Conduct inspections of land, buildings or structures at reasonable times, to determine compliance with and enforce the provisions of this Article.
 3. Maintain all records necessary for the enforcement of this Article, including, but not limited to, all maps, amendments, and use permits, variances, appeal notices, and applications therefor.
 4. Receive, file and forward all appeals, notices, applications for variances, use permits or other matters to the appropriate officials or boards.
 5. Institute in the name of the Town, any appropriate actions or proceedings to enforce this Article.
 6. Serve as ex-officio, non-voting member of the Planning Commission.
- C. Application Procedure. A zoning application shall be processed in accordance with the following procedure:
1. Timeline. Pursuant to Minnesota Statute 15.99, a zoning application shall be approved or denied within sixty (60) days, or such time period as prescribed by Minnesota State Statutes, from the date of its official and complete submission (or other time as may be required by law) unless extended by the Town pursuant to statute or a time waiver is granted by the applicant.
 2. Application. Applications shall be filed with the Town Clerk on an official application form of the Town, accompanied by a fee as established by the Town Board. The application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use. The number of copies to be provided and any additional data shall be determined by the Zoning Administrator. Applications shall be complete before they are accepted.

3. Time to deem an application complete. An application will be deemed complete unless the applicant receives written notice within fifteen (15) business days, or such time period as prescribed by Minnesota State Statutes, exclusive of Saturdays, Sundays and legal holidays of its submission (or other time as may be required by law) indicating it is not complete and indicating what information is missing. This notice shall be considered given by its deposit in the U. S. Mail, first class postage prepaid, addressed to any listed applicant at the address given on the application form. In the event the applicant fails to provide an address on the application form, this notice requirement for incomplete applications shall be deemed waived by the applicant.
4. Additional data. The Town Board, Planning Commission, and staff may request additional information from the applicant concerning the application or may require as a condition of proceeding with its consideration of any matter that the applicant furnish expert opinion and data at the expense of the applicant.
5. Such application, once deemed complete, shall be considered by the Town Planning Commission at a public hearing following notice as required by law.

Section 704.02: Appeals and Board of Adjustment and Appeals

- A. Board of Adjustment and Appeals. There is hereby established a Board of Adjustment and Appeals. The Planning Commission shall act as the Board of Adjustment and Appeals. Final action on all appeals and adjustments shall be made by the Town Board. The Board of Adjustment and Appeals shall have the following powers with respect to this Article.
 1. Definition of Appeal. The power to hear appeals and recommend actions where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the Zoning Code.
 2. Requests for Variances. The power to hear requests for modification of or variation from the provisions of this Article consistent with State Statutes, as applied to a specific property and granted pursuant to the standards and procedures of this Article, and to recommend such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Article. The Board of Adjustment and Appeals may not permit as a variance any use that is not permitted under this Article for property in the zoning district where the land is located. (Amended Ord. 2013-05, Effective December 13, 2013)

3. Official Map. An official zoning map has been adopted by the Town, to hear and decide on appeal by the owner of land who has been denied a permit to build within the limits of land delineated on said map, which is set forth in the Town's Comprehensive Plan as provided by Minn. Stat. 394.361. To grant a permit for building in such location in any case in which the Board of Adjustment and Appeals finds, upon the evidence and the arguments presented to it:
 - (a) That the entire property of the appellant of which such area identified for public purposes forms a part that cannot yield a reasonable return to the owner unless such permit is granted, and
 - (b) That balancing the interest of the Town in preserving the integrity of the official map and of the Comprehensive Plan and the interest of the owner of the property in use of his property and in the benefits of ownership, the granting of such permit is required by consideration of justice and equity.
4. Composition of Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall be comprised of members of the Planning Commission acting in their various capacities as chairperson, etc. Subject to such limitations as may be imposed by the Town Board, the Board of Adjustment and Appeals may adopt rules for the conduct of proceedings before it. Such rules may include provisions for giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide for a record of its proceedings which shall include minutes of its meetings, its findings and the action take on each matter heard by it, including the final order.
5. Meeting of Board of Adjustment and Appeals. The meetings of the Board of Adjustment and Appeals shall be held at the call of its chairman and at such other times as the Board of Adjustment and Appeals in its rules of procedure may specify.

B. Appeals.

1. Definition of Appeal. An appeal from any order, requirement, decision or determination of any administrative official may be taken by any person affected thereby, or by an officer, department, board or bureau of a town, within (30) days from the date of any such order, requirement, decision or determination by filing with the Zoning Administrator a written notice of appeal.
2. Notice and Hearing for Appeals. In addition to the notice of hearing required by this Article. A notice shall be published in the official newspaper once, at least ten (10) days before the date of the hearing. Decisions by the Board of Adjustments and Appeals are final subject to appeal to the Town Board and

the rights of judicial review by the person appealing. The notice of the appeal shall state:

- (a) The particular order, requirement, decision or determination from which the appeal is taken.
 - (b) The name and address of the appellant.
 - (c) The grounds for appeal.
 - (d) The relief requested by the appellant.
3. Stay. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment and Appeals, to whom the appeal is taken certifies that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property.
4. Recommendation of Board of Adjustment and Appeals. The Board of Adjustment and Appeals may recommend, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of a Township Official appealed from and to that extent, shall have all the powers of the officer from whom the appeal was taken and may recommend to the Town Board direct the issuance of a permit.

Section 704.03: Variances

- A. Application. A written application for a variance shall be filed, on a form provided by the Town, with the Town Clerk; the application shall be accompanied by the fee as set forth in Chapter 13 and the development plans which shall include the following information:
1. Full legal name (first, middle, and last) and address of both the applicant, fee owner name and address and any other persons having a legal interest therein.
 2. The legal description of the property involved in the request for variance, including the street address, if any, of the property, and proof of legal ownership.
 3. A site plan drawn to scale showing the property dimensions and adjacent roads or a certificate of survey may be required.
 4. Location of all existing and proposed buildings and their size, including square footage.

5. Location of curb cuts, driveways, existing wells, septic systems, wetland locations, generalized soil information parking spaces and general topographic information.
6. The variance requested and the reasons therefor.
7. Any such information as the Zoning Administrator may reasonably require of this article.
8. The plans shall contain sufficient information for the Board of Adjustment and Appeals to determine whether the proposed variance will meet all applicable development standards if the variance is granted.

The Board of Adjustment and Appeals may recommend conditions in the granting of a variance which the Board may reasonably determine to be necessary to protect adjacent properties, preserve the public health, safety and welfare, and comply with the intent and purposes of this Article.

The Board of Adjustment and Appeals may also recommend such conditions and requirements as are necessary to insure compliance with the terms of the variance.

B. Hearing Procedure. The Zoning Administrator shall, upon the filing of a Notice of Appeal or an application for a variance, refer the matter to the Board of Adjustment and Appeals and establish a time for the hearing thereof by said Board of Adjustment and Appeals no less than twenty-one (21) days after the filing of said notice or application and no more than forty-five (45) days after the filing thereof. The Zoning Administrator shall notify the appellant or applicant, the chairman of the Planning Commission, the Building Official and in the case of an appeal, the officer from whom the appeal is taken, of the time and place of the hearing. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper of the Town.

1. Appearance by Applicant. The Board of Adjustment and Appeals shall consider the application at its next regular meeting, but not earlier than ten (10) days after publication.

The applicant or his representative, who must have signed and notarized authorization from the applicant, must appear before the Board of Adjustment and Appeals in order to answer questions concerning the proposed variance.

2. Notification of Surrounding Property Owners. All property owners of record within five hundred (500) feet of the affected property or the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, shall be notified by written notice in the U.S. Mail as to the time and place of the public meeting. The failure of any

property owner to receive notification or defect in such notification shall not invalidate the proceedings.

3. Continuances. On the request of the Zoning Administrator, or the Planning Commission, the Board of Adjustment and Appeals shall continue said hearing for a reasonable time, not to exceed sixty (60) days from the date of filing of the notice of appeal or application for a variance, in order to allow the planning agency or its authorized representative to review and report to the Board on the matter.
 4. Issuance of Order. The Board of Adjustment and Appeals shall decide any appeal or any application for a variance and issue its order with respect thereto within thirty (30) days from the date of the hearing thereon.
- C. Written Findings. The Board of Adjustment and Appeals shall make written findings in any case of an appeal or application or application for a variance and shall state said findings in the minutes as the reason for its decision; the order issued by the Board of Adjustment and Appeals shall include the legal description of the land involved. Any such findings and order shall be filed with the Town Clerk who shall immediately mail a certified copy thereof, bearing the notation of the filing date, to the appellant or the appellant or applicant and the Zoning Administrator.
- D. Town Board Review. All decisions of the Board of Adjustment and Appeals acting upon an appeal from an order, requirement, decision or determination of an administrative official or upon an application for a variance shall be reviewed and acted upon by the Town Board. The Town Board in acting upon the request for a variance shall prepare Findings of Fact based upon a review of the application either granting or denying the variance. The Town Board shall also provide that additional reasons for either granting or denying the variance may be added by the Town consultants. Any applicant aggrieved by such additional reasons shall have the opportunity to return to the Town Board to make final determination on such reasons. Any aggrieved person may have any decision or order of said Town Board reviewed by an appropriate remedy in District Court as provided by law.

- E. Review Criteria. The Town Board shall not approve any variance request unless they find the following criteria have been met: (Amended Ord. 2013-05, Effective December 13, 2013)
1. The proposed variance is consistent with the Comprehensive Plan.
 2. The proposed variance is in harmony with the general purpose and intent of this Ordinance.
 3. The applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.
 - d. Economic considerations alone do not constitute practical difficulties.
 4. A variance shall not be granted for a use not allowed under the zoning ordinance for property in the zone where the affected person's land is located.
 5. The Town may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

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Section 704.04: Conditional Use Permits

- A. Review Standards; Compatibility with Comprehensive Plan. The Town Board, upon recommendation by the Planning Commission, may grant a conditional use permit in any district provided the proposed use is listed as a conditional use for the district. In reviewing a conditional use permit application, both the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety and general welfare of the occupants of the surrounding lands, existing and anticipated traffic conditions, parking facilities on adjacent streets and land, the effect on utility and school capacities, the effect on property values and scenic views in the surrounding area and the effect of the proposed use on the Comprehensive Plan. The Planning Commission and the Town Board must ascertain that the proposed use will not be detrimental to the health, safety or general welfare of the Town, nor will cause serious traffic congestion nor hazards, nor will seriously depreciate surrounding property values, and that said use is in harmony with the general purpose and intent of this Code and the Comprehensive Plan.
- B. Definition. Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be granted for a particular use and not for a particular person or firm. The cancellation of a conditional use permit shall be considered equivalent to a rezoning, and the same requirements and procedures shall apply.
- C. Records. The Town shall maintain a record of all conditional use permits issued including information on the use, location, conditions imposed by the Planning Commission, time limits, review dates and such other information as may be appropriate.
- D. Preliminary Plan; Staged Development. In order to preserve an appropriate flexibility in the development plans for a large project which is to be developed over a number of years, a preliminary plan may be approved after a public hearing. The developer will then seek approval of the final plan in stages as he progresses with development. Additional public hearings may need to be held if the developer proposes to make a substantial change from the plans or conditions included in the conditional use permit when it was granted in approving the preliminary plan providing the phasing plan is being completed over a maximum of five (5) years. Enlargement, intensification of use or similar changes not specifically permitted by the conditional use permit issued, shall be considered substantial changes. All legally permitted uses existing at the time of adoption of this Code that now require a conditional use permit shall be considered as having a conditional use permit which contains conditions which permits the land use and structures as they existed on said date and any enlargement, structural alteration or intensification of use shall require an amended conditional use permit as provided for above. The Planning Commission may impose additional,

reasonable conditions for the continuation of such use in accordance with the hearing provisions as set forth in Section 704.05.

- E. Application. Whenever this Code requires a conditional use permit, written application, on a form provided by the Town, shall be filed with the Town Clerk at least 21 days prior to the Planning Commission Meeting.

The application shall be accompanied by the fee as set forth in Chapter 13 and the development plans of the proposed use showing such information as may be necessary or desirable including, but not limited to that listed below. These plans need not meet engineering or construction detail so long as they contain adequate information upon which the Planning Commission can determine the proposed development will meet all development standards if the project proceeds in accordance with such plans.

1. Full legal name (first, middle, and last) and address of the applicant, fee owner name and address and any other persons having a legal interest therein.
2. The complete legal description of the property involved in the request for conditional use permit, including the street address, if any, of the property, the property identification number, and proof of legal ownership.
3. A site plan drawn to scale showing the property dimensions, all existing and proposed buildings, their dimensions and square footage, and adjacent roads.
4. Location of curb cuts, driveways, existing wells, septic systems, wetland locations, parking spaces and general topographic information.
5. Landscaping and screening plans, including species and size of trees and shrubs proposed.
6. Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated within the area.
7. Type of business or activity and proposed number of employees (if applicable).
8. Proposed floor plan and elevations of any building(s) with use(s) indicated.
9. Sewer and water plan with estimated use per day.
10. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be made part of the permit application.

11. A location map showing the general location of the proposed use within the Town.
 12. A map showing all principal land uses within five hundred (500) feet of the parcel for which the application is being made.
 13. Any additional data requested by the Planning Commission or the Zoning Administrator.
- F. Proof of Ownership. The applicant shall supply proof of ownership of the property for which the conditional use permit is requested consisting of a property identification number and a currently certified copy of the Abstract of Title, an affidavit of ownership, a current Certificate of Title or an attorney's title opinion based thereon, together with any unrecorded documents whereby the applicant acquired a legal or equitable ownership interest.
- G. Processing the Application. See 704.01 C.
- H. Hearing Procedure. The Zoning Administrator shall, upon the filing of request for a Conditional Use Permit refer the matter to the Planning Commission and establish a time for the hearing thereof by said Planning Commission no less than twenty-one (21) days after the filing of said notice or application and no more than forty-five (45) days after the filing thereof. The Zoning Administrator shall notify the applicant, the chairman of the Planning Commission, and the Building Official of the time and place of the hearing. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper of the Town.
1. Appearance by Applicant. The Planning Commission shall consider the application at its next regular meeting, but not earlier than ten (10) days after publication.

The applicant or his representative, who must have signed and notarized authorization from the applicant, must appear before the Planning Commission in order to answer questions concerning the proposed conditional use permit.
 2. Notification of Surrounding Property Owners. All property owners of record within five hundred (500) feet of the affected property or the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, shall be notified by written notice in the U.S. Mail as to the time and place of the public meeting. The failure of any property owner to receive notification or defect in such notification shall not invalidate the proceedings.
 3. Continuances. On the request of the Zoning Administrator, or Planning Commission, the Planning Commission shall continue said hearing for a

reasonable time, not to exceed sixty (60) days from the date of filing of the notice of appeal or application for a variance, in order to allow the planning agency or its authorized representative to review and report to the Board on the matter.

- I. Recommendation of Planning Commission. The Planning Commission shall make written findings on the disposition of an application within sixty (60) days from the date of the public hearing on the application. If the Planning Commission recommends approval of the conditional use permit, it may impose conditions including a length of time it will be in effect, which is considered necessary to protect the public health, safety and welfare, and such conditions may include a time limit for the use to exist or operate.
- J. Planning Commission to Forward Recommendation. The written recommendation of the Planning Commission shall be forwarded to the Town Board for final action.
- K. Written Findings Town Board Review. The Planning Commission and Town Board shall make written findings in each case and shall state the reasons for its decision. Such decision shall be filed with the Town Clerk who shall file a copy of any conditional use permit with the County Recorder or Registrar of Titles if requested by the Town Board. A copy of the filed permit, bearing a notation of the filing date, shall be mailed to the applicant if directed by the Town Board. The Town Board shall also provide that additional conditions may be added by the Town consultants. Any applicant aggrieved by such additional conditions shall have the opportunity to return to the Town Board who shall make a final determination on such conditions.
- L. Granting or Recommending Conditional Use Permit. In granting or recommending any Conditional Use Permit provided for in this Code, the Zoning Administrator, the Planning Commission or the Board shall find that the proposed use conforms substantially to the policies, goals and standards of the Comprehensive Plan.
- M. Compliance with Terms of Permit. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith.
- N. Revocation. A violation of any condition set forth in a conditional use permit shall be a violation of this Code. Failure to correct said violation within thirty (30) days of written notice from the Town Board shall automatically terminate the permit. All costs incurred by the Town in reviewing the Conditional Use Permit violation shall be the responsibility of the applicant/holder.
- O. Suspension of Conditional Use Permit. If construction relative to the use authorized under said conditional use permit is commenced and subsequently determined by the Town Board to be abandoned for a period of one hundred twenty (120) days, the conditional use permit shall be suspended at the end of said one hundred twenty (120) days. Before said construction may be resumed, a conditional use permit must be

- reinstated by the Town Board provided that no changes or alterations in the original plan have been made. If the building permit for construction that was determined to be abandoned became invalid prior to the recommencement of such construction, the suspended conditional use permit shall expire at the time said building permit became invalid.
- P. Amended CUP. An amended conditional use permit application may be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplication for permits that have been denied or permits that have expired, requests for changes in conditions and as otherwise described in this Code.
- Q. Reapplication Upon Denial. No application for a conditional use permit for a particular use on a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application.
- R. Periodic Inspection. A periodic inspection or review may be required as a condition in the granting of a conditional use permit, along with any fees associated therewith. The conditional use permit shall be reviewed by the Planning Commission and Town Board at a public hearing at least thirty (30) days prior to the expiration of the permit, with notice of said hearing published in the official newspaper at least ten (10) days prior to the review. It shall be the responsibility of the Town Clerk to schedule such public hearing.

Section 704.05: Amendments to Code (Text and Map)

- A. Procedure. An amendment to this Code (text and map) may be initiated by the Town Board, the Planning Commission or by petition of affected property owners, as defined herein. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report, as hereinafter provided, and may not be acted upon by the Town Board until it has received the recommendation of the Planning Commission on the proposed amendment or until sixty (60) days have elapsed from the date of reference of the amendment without a report by the Planning Commission. The Town shall maintain a record of all applications for amendments to this Code.
- B. Application (Text Amendment and Rezoning). Where an amendment (text or map) to the Code is proposed by a property owner, an application therefore shall be filed with the Zoning Administrator; said application shall be accompanied by the fee as set forth in Chapter 13. Where a map amendment (rezoning) is proposed by a property owner, said application shall be accompanied by development plans, if any, for the use which requires the rezoning. The development plans shall show such information as may be reasonably required by the administrator, including but not limited to those things listed below.

1. Full legal name (first, middle, and last) and address of the applicant, fee owner name and address and any other persons having a legal interest therein.
 2. The complete legal description of the property involved in the request for an amendment, including the street address, if any, of the property, the property identification number, and proof of legal ownership.
 3. A site plan drawn to scale showing the property dimensions, all existing and proposed buildings, their dimensions and square footage, and adjacent roads.
 4. Location of curb cuts, driveways, existing wells, septic systems, wetland locations, parking spaces and general topographic information.
 5. Landscaping and screening plans, including species and size of trees and shrubs proposed.
 6. Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated within the area.
 7. Type of business or activity and proposed number of employees (if applicable).
 8. Proposed floor plan and elevations of any building(s) with use(s) indicated.
 9. Sewer and water plan with estimated use per day.
 10. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be made part of the permit application.
 11. A location map showing the general location of the proposed use within the Town.
 12. A map showing all principal land uses within five hundred (500) feet of the parcel for which the application is being made.
 13. Any additional data requested by the Planning Commission or the Zoning Administrator.
- C. Hearing Procedure. The Zoning Administrator shall, upon the filing of an application for an amendment, refer the matter to the Board of Adjustment and Appeals and establish a time for the hearing thereof by said Board of Adjustment and Appeals no less than twenty-one (21) days after the filing of said notice or application and no more than forty-five (45) days after the filing thereof. The Zoning Administrator shall notify the applicant, the chairman of the Planning Commission and the Building

Official of the time and place of the hearing. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper of the Town.

1. Appearance by Applicant. The Planning Commission shall consider the application at its next regular meeting, but not earlier than ten (10) days after publication.

The petitioner or his representative, who must have signed and notarized authorization from the applicant, must appear before the Planning Commission in order to answer questions concerning the proposed conditional use permit.

2. Notification of Surrounding Property Owners. All property owners of record within five hundred (500) feet of the affected property or the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, shall be notified by written notice in the U.S. Mail as to the time and place of the public meeting. The failure of any property owner to receive notification or defect in such notification shall not invalidate the proceedings.

3. Continuances. On the request of the Zoning Administrator, or the Planning Commission, the Board of Adjustment and Appeals shall continue said hearing for a reasonable time, not to exceed sixty (60) days from the date of filing of the notice of appeal or application for a variance, in order to allow the planning agency or its authorized representative to review and report to the Board on the matter.

- D. Planning Commission Report. The Planning Commission shall make its report on the application to the Town Board, in writing, within sixty (60) days after the public hearing, unless the applicant consents to extended consideration by the Planning Commission. The report shall recommend that the amendment be granted or denied and shall include the Planning Commission's recommendation as to any conditions to be imposed if the amendment is granted, including time limits or provisions for periodic review and shall state the reasons therefor.

The Planning Commission's report shall be filed with the Town Clerk who shall refer the same to the Board for consideration at its next regular meeting; provided however, if the next regular meeting of the Board is within seven (7) days of the date of filing; then such consideration may be at the second regular meeting after said filing. At the same time, the Zoning Administrator shall mail to the applicant a copy of the Planning Commission's report and a notice of the time and place of the meeting at which the report will be considered by the Board.

If the Planning Commission fails to file a report with the Zoning Administrator within the time period provided by this Section, the application shall be referred to the Board as herein provided, without report, after the time for filing the report has expired.

- E. Town Board Action on Application. The Board shall make its decision on the application within sixty (60) days of the filing of the Planning Commission's report with the Town Clerk or after the last day for filing same, if no report is filed. The Board shall make written findings and shall state therein the reasons for its decision. Any such order shall be filed with the Town Clerk who shall immediately mail a copy thereof, bearing the notation of the filing date, to the applicant.

In the event such order directs amendment of the Zoning Code, the Zoning Administrator shall refer the order to the Town Attorney to prepare an amendment of the Zoning Code as provided by law.

- F. Re-Application. No re-application for zoning amendment shall be resubmitted for a period of six (6) months from the date of the denial of a previous application.
- G. Zoning and the Comprehensive Plan. Any amendment to the Zoning Code shall amend the Comprehensive Plan in accordance therewith. The Planning Commission shall inform the Board of any zoning proposal which does not conform to the Comprehensive Plan and inform the Board as to why the plan should or should not be amended.
- H. Zoning Changes Not Conforming to the Comprehensive Plan. Prior to approval of any zoning change not conforming to the Comprehensive Plan, a public hearing shall be conducted by the Planning Commission and the results noted in the minutes of the official proceedings. The public hearing required for the zoning change or amendment may also serve as the public hearing for an amendment to the Comprehensive Plan.
- I. Granting or Recommending Rezoning. In granting or recommending any rezoning provided for in this Code, the Zoning Administrator, the Planning Commission or the Board shall find that the proposed development conforms substantially to the policies, goals and standards of the Comprehensive Plan.

Section 704.06: Environmental Assessment (EAW) or Impact Statements (EIS)

Zoning Administrator Review. No zoning, building permit, structure or land use, variance or Code amendment shall be approved prior to review by the Zoning Administrator to determine the necessity for completion of a Minnesota Environmental Assessment Worksheet (EAW) as required by the Minnesota Environmental Quality Board Regulations as amended.

- A. Adoption of Minnesota Statutes Regulating Environmental Assessment Worksheet (EAW or Impact Statements (EIS)). The Town of May adopts the Minnesota

Environmental Quality Board Regulations as established pursuant to Minnesota Statute 116D Entitled State Environmental Policy.

**ARTICLE 705: PERMITTED USES AND DIMENSIONAL
STANDARDS IN ZONING DISTRICTS**

Section 705.01: Zoning Districts

- A. For the purpose of this Code, the Town is hereby divided into the following basic Zoning Use Districts.

District Symbol Intent and Primary Use

| | |
|----|--|
| AG | AGRICULTURAL. Preserve commercial agriculture as a viable land use and significant economic activity within the community. Areas designated will provide land area for permanent economically viable commercial food production. Agricultural Preserve is an option that may be utilized in this zoning classification pursuant to Minn. Stat. 473H. |
| RR | RURAL RESIDENTIAL. Provide rural low density housing. Rural Residential districts will allow acreage large enough to support agricultural operations and or hobby farming. |
| C | CONSERVANCY. Preserve, protect and manage environmentally sensitive areas having wet soils, steep slopes, exposed bedrock or unique natural or biological characteristics in accordance with compatible uses. |
| GB | GENERAL BUSINESS/COMMERCIAL. Provide a district for the existing commercial business. |

Section 705.02: Overlay Zoning Use Districts

At the time of adoption of this Code or at some future date, the Town Board may adopt overlay districts to promote specific orderly development or to protect some specific sensitive natural resource.

- A. The following overlay regulations are in addition to regulations imposed by the existing basic zoning use districts:

District Symbol Intent and Primary Use

| | |
|----|---|
| FP | FLOOD PLAIN - Protect the natural environmental, homes and other structures from flood waters, by preserving the natural overflow areas of lakes, streams and rivers. |
|----|---|

- B. The following overlay regulations are in lieu of regulations imposed by the existing basic zoning use districts:

| <u>District Symbol</u> | <u>Intent and Primary Use</u> |
|------------------------|---|
| LS-1 | LAKE SHORE-1 NATURAL ENVIRONMENTAL. Protect the ecological and scenic value of natural, undeveloped water bodies from the harmful effects of development. |
| LS-2 | LAKE SHORE-2 RECREATIONAL DEVELOPMENT. Protect the recreational value of a water body while allowing residential development along the shoreline. |
| LS-3 | LAKE SHORE-3 GENERAL DEVELOPMENT. Encourage development on those water bodies currently being developed for residential and recreational uses. |
| SCR | ST. CROIX RIVER. Conserve and protect the natural scenic values and resources of the St. Croix River Valley in order to maintain the high standard of environmental quality indicative of one of the few remaining wild rivers in the nation. |

Section 705.03: General Performance Standards

All uses, buildings and structures permitted pursuant to this Code shall conform to the performance and design standards set forth in this Article; said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this article as set forth in this Article.

Section 705.04: Principal Building

- A. The Principal Building.
1. Except as provided by a conditional use permit issued pursuant to this Code, there shall be no more than one (1) residential dwelling unit on any one (1) parcel of land.
 2. Certain Dwelling Units Prohibited. No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above or accessory building shall be used at any time as a dwelling unit. Except as provided in Article 708.
 - (a) Principal buildings with more than one (1) use, in which one (1) of those uses is a dwelling unit shall require a conditional use permit. (See Section 704.05)

- (b) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.
3. All principal buildings shall meet or exceed the minimum standards of the Minnesota State Building Code, the Minnesota State Uniform Fire Code, the Minnesota Department of Health, the Minnesota Pollution Control Agency and the Town of May Municipal Code. The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.
4. All existing principal buildings in residential districts with non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems shall be considered a seasonal principal building. No building permit shall be issued for the improvement of a seasonal principal building to a continuous year-round (365 days) habitable dwelling unit unless the existing building conforms or the building after such improvement (including septic system), will conform with all the requirements of the Town of May Code and any applicable State requirements, including road access to approved Town Road Standards.

Section 705.05: Accessory Buildings and Structures

A. Types of Accessory Buildings.

1. Types of Accessory Buildings. Types of accessory buildings include, but are not limited to, the following: agricultural building, boat house, storage building, ice fishing house, lean-to, private garage, and storage or tool shed. (See Section 702.01 Definitions.)

B. General Requirements.

1. Detached accessory buildings are approved for personal and/or agricultural use. A small business as defined in 402.02 (1) of this Code may operate within an accessory building, with business equipment stored therein, so long as a Small Business Permit has been issued by the Town. A business operation whose impacts do not rise to the level of a small business as defined in 402.02 (1) of this Code, may store business equipment inside an accessory building only as allowed by 402.02 (1). (Amended Ord. 2014-10, Effective March 20, 2015)
2. In all districts, all structures, landscaping and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.

3. No accessory building shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal building to which it is accessory.
4. A building permit is required for all accessory structures larger than one hundred twenty (120) square feet except agricultural buildings. Agricultural buildings shall require administrative review and approval of the Town Building Official.
5. Square footage shall be determined by measuring the outside dimensions of the structure.
6. An agricultural building or domestic farm animal building may require a Minnesota Pollution Control Agency Permit.
7. Ice fishing houses stored on parcels of land during summer months shall be considered an accessory storage building equivalent to a storage shed. Ice fishing houses shall meet the size limitations of Section 705.05 and all other provisions of this Code.

C. Dimensional Standards.

1. The maximum height and total square footage for all detached accessory structures on a property are as follows: (Amended by Ord. 2013-04, Effective 12/13/13; Amended by Ord. 2014-01, Effective 9/10/14)

| <u>Lot Area</u> | <u>Total Square Footage</u> | <u>Maximum Height</u> |
|--|-----------------------------|-----------------------|
| Parcels less than 1 acre | 720 sq. ft. | 14 feet |
| 1 acre - 2.49 acres | 1,000 sq. ft. | 16 feet |
| 2.5 acres - 5 acres | 2,000 sq. ft. | 18 feet |
| 5.01 acres - 20.00 acres | 2,500 sq. ft. | 21 feet |
| 20.01 or more acres, non-agricultural buildings* | 5,000 sq. ft. | 25 feet |
| 20.01 or more acres, agricultural buildings** | Unlimited | 30 feet |

* On parcels of 20.01 or more acres, any non-agricultural building over 2,500 sq. ft. in size must meet a minimum 100 foot setback from side and rear lot lines.

** On parcels of 20.01 or more acres, agricultural buildings must be put to an agricultural use immediately after construction.

2. No detached garage used or intended for storage of passenger automobiles, recreational vehicles, boats, tractors or trailers shall exceed one thousand (1,000) square feet, nor shall any attached residential garage exceed the height of the principal structure.
3. The dimensions of a lean-to on a parcel of ten (10) acres or more in size shall not be counted in calculating the square footage of the accessory building to which it

is attached and thus shall not be counted in the calculation of the total square footage of all detached structures provided, however, that if one (1) or more sides of a lean-to is closed, whether permanently or temporarily, it will no longer be considered a lean-to and its dimensions will be used to calculate the square footage of its associated accessory building and the total square footage of all detached structures.

4. In addition to the requirements of paragraph 3, the square footage of a lean-to shall not measure more than seventy (70) percent of the square footage of the accessory building to which it is attached, and no more than fifty (50) percent of the allowable lean-to square footage may be located on any one side of the accessory building.
- D. Setbacks. All accessory buildings shall comply with the required yard setbacks of the zoning district in which it is located and the following regulations:
1. No detached garage or other accessory building shall be located nearer the front lot line than the principal building on the lot. In the case of a corner lot, both lot lines fronting a public street shall be considered a front lot line. Accessory structures located on a lake or stream frontage lot may be located between the public road and the principal structure, provided that all other setback requirements are met.
 2. No accessory building in which a business operation is being conducted shall be located closer than 100 feet to any property line.
 3. For purposes of this section of the Zoning Ordinance, towers over 35 feet in height shall be considered “Accessory Buildings” and must adhere to all setbacks specified in this ordinance as well as any setback requirements stated elsewhere in the Town Code dealing with towers.
 4. For purposes of this section of the Zoning Ordinance, the following structures shall be considered “Accessory Buildings” and must adhere to all setbacks specified in this ordinance: self standing (not building-mounted) solar panels, dog kennels and dog runs, swimming pools, and outside wood burning boilers and furnaces.
- E. Number of Accessory Buildings.
1. On parcels of two and one-half (2.5) acres or less, one (1) detached accessory structure is allowed. On parcels greater than two and one-half (2.5) acres and up to and including twenty (20) acres, a maximum of two (2) detached accessory structures are allowed. On parcels greater than twenty (20) acres, there is no limit on the number of accessory structures, provided they are agricultural buildings.

2. One (1) single story shed of up to one hundred twenty (120) square feet is permitted in addition to the number of accessory structures listed above, and the area of such shed shall not be counted in the total square footage area of all accessory structures on a property.
 3. For accessory buildings, nominal relief from the setback standards of the Town Code may be applied for under the Certificate of Compliance process as defined in Article 311 of this Code.
- F. Accessory Building Integral to Principal Building. An accessory building shall be considered as an integral part of the principal building if it is located six (6) feet or less from the principal building. The exterior design and color shall be the same as that of the principal building or be of an earthen tone.
- G. Farmsteads. Land may be subdivided into parcels such that the existing number and square footage of accessory structures may remain as a farmstead so long as such farmstead is subdivided onto a parcel of at least ten (10) acres, subject to the following conditions:
1. The accessory structures existed as part of the farmstead as of January 1, 2001;
 2. There shall be no additional accessory buildings constructed on the property;
 3. If any accessory structure becomes a hazardous building, as defined by this Code, it shall be repaired or removed by the owner.
- H. Lean-Tos.
1. Lean-tos shall be supported by posts only along one side of the lean-to.
 2. Lean-tos shall have the same roof pitch as the accessory building to which it they are attached.
 3. Lean-tos must be constructed of the same materials and be of like appearance to the accessory building to which they are attached.
 4. All lean-tos are to be used for personal or agricultural use only. No commercial use or commercial related storage is allowed in a lean-to unless expressly permitted by the terms of a Small Business Permit issued by the Town.

Section 705.06: Guest Houses

- A. Definition. Guest houses for the purpose of this section shall be an accessory building detached from the principal building with temporary accommodations for

sleeping, but having no kitchen facility. It is intended for the use of persons visiting the occupants of the principal structure.

- B. Permitted in Rural Residential and Agricultural Zones. Guest houses shall be permitted in all Rural Residential and Agricultural Zones and shall conform to all requirements of this Article and other regulations applicable to residential dwellings including setback and yard requirements in relation to the principal structure.
- C. Parking. All guest houses shall have designated off-street parking spaces.

Section 705.07: Landscaping

- A. Requirement. Landscaping on a lot shall consist of a finished grade to prevent soil erosion and sedimentation. Cover such as sod, seed, mulch, or any other cover may be required by the Town Board to protect the soil and value of the lot and adjacent property.
- B. Maintenance. Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.

Section 705.08: Screening

- A. Requirement. Screening shall be required in all zones where; (a) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining zone; or (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.
- B. Exterior Storage Screened. All exterior storage shall be screened. The exceptions are (1) merchandise being displayed for sale; (2) materials and equipment currently being used for construction on the premises; and (3) agricultural equipment used on the property during a twelve month period.
- C. Types of Screening. The screening required by the Code shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.
- D. General Business/Commercial. Where any general business or commercial use (structure, parking or storage) is adjacent to property zoned for residential use, that business shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or business is across the street from all zones.

Section 705.09: Fences

- A. Permitted Fences. Fences may be permitted in all yards subject to the following:
1. Solid walls in excess of four (4) feet above adjacent ground grades shall be prohibited.
 2. That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
 3. Fences over six (6) feet in height from the finished grade shall require a building permit in addition to any other required permits.
 4. No fence shall be permitted on public rights-of-way.
- B. Fences Adjoining Property Lines. Fences may be permitted along property lines subject to the following:
1. Fences may be placed along property lines provided no physical damage of any kind results to abutting property.
 2. Fences in the General Business/Commercial district may be erected on the lot line to a height of six (6) feet or to a height of eight (8) feet with a security arm for barbed wire.
 3. Fences in residential districts may be located on any side or rear lot line to a height of four (4) feet above finished grade.
 4. Fences along side and rear interior lot lines beginning at the rear building line of the principal structure shall be a maximum of six (6) feet in height.
 5. Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than four (4) feet.
- C. Required Yard Fences. Fences may be permitted within required yards subject to the following:
1. Fences located within the side and rear yard non-buildable setback areas beginning at the rear building line shall not exceed six (6) feet in height from finished grade.
 2. Swimming Pool Enclosures and Protective Devices.

- (a) Enclosures. Every person owning land within the Town of May upon which there is presently situated an above or below ground swimming pool or who constructs such a swimming pool after the effective date of this ordinance which is intended to be used for swimming, shall erect and maintain thereon an adequate fence either surrounding the property or pool area, sufficient to make such body of water inaccessible to children. Such enclosure, including gates therein, shall be not less than 5 feet above the underlying ground and not in any required areas. All gates shall be self-closing and self-latching with latches placed 4 feet above the underlying ground and otherwise made inaccessible from the outside to children. The openings between the bottom of the fence and the ground shall not exceed 4 inches. Said fence shall be constructed in conformance with applicable state building codes and approved and inspected by the Town Building Official.
- (b) Protective Devices. A pool cover or other protective device approved by the Town Building Official shall be an acceptable enclosure so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described above and complies with the American Society for Testing and Materials (ASTM) in compliance with standard F1346-91(2003), and is sufficient to support the weight of 500 lbs. minimum and completely cover or enclose the pool. The substitution with such a pool cover or other protective device shall be done by the issuance of a Certificate of Compliance or Building Permit.

- 3. Fences located within the buildable area of a lot of eight (8) feet or more from the rear lot line may be a maximum of eight (8) feet in height.

D. Permitted Encroachments on Required Yards. The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this Article.

- 1. In any yards: posts, off-street open parking, flues, leaders, skills, pilasters, lintels, cornices, eaves (up to three (3) feet), gutters, awnings, open terraces, steps, chimneys, flag poles, fences, essential services, exposed ramps (wheelchair), uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than three (3) feet from any lot line nor less than one (1) foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants; floodlights or other sources of light illustrating authorized illuminated signs or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct

source of light is not visible from the public right-of-way or adjacent residential property.

2. In side and rear yards: fences thirty percent (30%) open; walls and hedges six (6) feet in height or less; bays not to exceed a depth of three (3) feet or containing an area of more than thirty (30) square feet; fire escapes not to exceed a width of three (3) feet.
3. On a corner lot: nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets within one hundred (100) feet of such intersection.

Section 705.10: Exterior Storage

- A. Permitted Exterior Storage. All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following:
 1. Laundry drying;
 2. Property owner's recreational equipment;
 3. Construction and landscaping materials and equipment currently (within a period of twelve (12) months) being used on the premises;
 4. Agricultural equipment and materials if these are used or intended for use on the premises within a 12 month period of time; and
 5. Off-street parking of licensed passenger automobiles and pick-up trucks on a prepared durable surface or driveway.
- B. Conservancy/Commercial Districts. In conservancy or commercial districts, exterior storage of personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by this Code and will not be contrary to the intent and purpose of this Code.
- C. Refuse Containment. All waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds pursuant to the Minnesota Noxious Weed Law.
- D. Unlicensed Vehicles. Unlicensed passenger vehicles and trucks shall not be parked in districts for a period exceeding seven (7) days.

- E. All exterior storage not allowed pursuant to this Article or included as part of a conditional use permit may be considered as refuse and subject to the Nuisance Article.

Section 705.11: Soil Conservation Plans

- A. Soil Conservation Plans Requirement. On any development or land reclamation project with more than one (1) acre of soil, drainage patterns or vegetation cover that would be either destroyed or disturbed by the construction progress, the Town Board may require the owner or contractor on said project to request the Soil Conservation District to prepare a Soil and Water Conservation Plan to protect the soil from erosion or sheet and rill erosion for the duration of the construction project and/or over the long term occupancy of the site.
- B. The Town Board may require a soil conservation plan on projects which disturb less than one (1) acre of soil, drainage patterns or vegetation cover if, in the judgment of the Zoning Administrator, significant soil erosion, vegetation destruction or drainage damage may occur during the construction process.
- C. Written Recommendations. A soil conservation plan shall consist of specific written recommendations on how to protect the soil, vegetation and drainage patterns during the construction process. The Town Board may require construction fencing along the edges of the construction area.
- D. Slope Height. Where construction of a structure is proposed on slopes of up to twelve percent (12%) or less, the Town Board may require the applicant to provide a grading and erosion control plan.
- E. Where construction of a structure is proposed on slopes of greater than twelve percent (12%) or greater, the Town Board shall require the applicant to provide a grading and erosion control plan.
- F. Sloping or Erodible Building Sites. On sites with slopes of greater than twenty-five percent (25%) or on easily erodible soils as defined on soil maps and compiled by the Washington Soil and Water Conservation District, no structure shall be constructed.
- G. Bond or Escrow. The Town Board may require the applicant to post a bond or escrow to ensure the orderly completion of the grading and erosion control plan by a specific date.

Section 705.12: Drainage

- A. Requirement. No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or waterbodies. Such run-off shall be properly

channeled into a storm drain, a natural water course or drainageway, a ponding area or other public facility.

- B. Grading Permit. The Town, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit. (See Chapter 3, Section 306)
- C. Additional Agency Recommendations. The owner or contractor of any natural drainage improvement or alteration may be required by the Town Board to obtain recommendations from the Minnesota Department of Natural Resources, the Soil and Water Conservation District, the affected Watershed District(s) and/or the Town engineer(s), as well as obtaining a local grading permit.
- D. Slope Height. On any slope in excess of twelve percent (12%) where, in the opinion of the Town Board, the natural drainage pattern may be disturbed or altered, the Town Board may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.

Section 705.13: Land Reclamation and Land Grading

- A. By Mining Interim Use Permit (IUP) or Grading Permit. Within this Article, land reclamation and grading is the reclaiming of land by depositing or moving material so as to alter the grade. Land reclamation and grading may be permitted by Mining Interim use Permit (IUP) in the AG zone, or by a Grading Permit in all zones. Depositing a total of more than fifty (50) cubic yards of material per acre, either by hauling in or regrading the area, shall constitute land reclamation and grading. Land reclamation and grading in flood plains shall be in accordance with the Floodplain Ordinance. The permit shall include as a condition thereof a finished grading plan which will not adversely affect the adjacent land and as conditions thereof shall regulate the type of material permitted, program for rodent control, plan for fire control, and general maintenance of the site, controls of vehicular ingress and egress, drainage and control of material disbursed from wind or hauling of material to or from the site.
- B. DNR Permit for Water Appropriation. No person, partnership or association, private or public corporation, county, municipality or other political subdivision shall appropriate or use any public water, surface or underground, without first securing a Use of Public Waters Permit and written permission of the Commissioner of the Division of Waters, Soils and Minerals of the State Department of Natural Resources. For purposes of these regulations, public waters shall be as defined in Minnesota Statute Chapter 105, and as follows:
 - 1. Public water shall include all lakes, ponds, swamps, streams, drainageways, floodways, floodplains, natural water courses, underground water resources

and similar features involving directly or indirectly the use of water within the community. (See Article 809, Wetlands.)

- C. No public water area shall be filled, partially filled, dredged altered by grading, mining or otherwise utilized or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources and the U.S. Army Corps of Engineers and a grading permit from the Town Board. Such Grading permits may be reviewed and approved by the Department of Natural Resources, the Town Engineer, the Watershed District and the Planning Commission.

Section 705.14: Mining

All mining and related uses of land, including but not limited to the excavation, removal or storage of sand, gravel, rock, soil, clay and other natural deposits, are subject to the adopted standards, codes and regulations of the Town related to such activities and all regulations of the Municipal Code of the Town of May, Chapter 4.

Section 705.15: Lighting, Lighting Fixtures and Glare

- A. Lighting in all Districts. In all districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining zone or from the public streets. Direct or sky-reflected glare, whether from floodlights, search lights, beacons or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the centerline of said street nor shall any light or combination of lights which cast light on residential property exceed four-tenths (0.4) foot candles.
- B. Lighting Standards. Lighting shall not exceed twenty-five (25) feet or the height of the principal building on a lot, without a conditional use permit.

Section 705.16: Parking

- A. Surfacing and Drainage. Off-street parking areas shall be improved with a durable surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock and similar treatment for parking.
- B. Location. All accessory off-street parking facilities required shall be located as follows:

1. Parking spaces accessory to one family dwellings must be on the same property identification number as the principal use serviced.
2. There shall be no off-street parking space within ten (10) feet of any street right-of-way.
3. No off-street open parking area shall be located closer than five (5) feet from an adjacent lot.
4. Spaces accessory to uses located in a general business or commercial district shall be within eight hundred (800) feet of a main entrance to the principal building served. Parking as required by the Building Code for the handicapped shall be provided.

C. General Provisions

1. Existing Off-Street Parking. Existing off street parking spaces and loading spaces upon the effective date of this Article shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.
2. Benches In Places of Public Assembly. In parks, churches and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating facility shall be counted as one (1) seat for the purposes of determining requirements for off-street parking facilities under this Article.
3. Parking Spaces. Each parking space shall not be less than ten (10) feet wide and twenty (20) feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than ten (10) feet wide and twenty (20) feet in length depending upon the size of the vehicle, as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in or additions to the parking space size must be submitted in a dimensional site plan with size of vehicle to use parking spaces indicated to the Zoning Administrator for review and approval. Signs specifying the vehicle size to use the parking space shall be required by the Zoning Administrator. Parking spaces for the handicapped shall not be less than twelve (12) feet wide and twenty (20) feet in length.
4. Parking Facilities in Residential Uses. Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of passenger vehicles and no more than one (1) truck shall exceed twelve thousand (12,000) pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking automobiles belonging to the

employees, owners, tenants or customers of nearby businesses or manufacturing establishments.

5. Use of Parking Area. Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.
6. Required Yard Area. In rural residential districts, no more than twenty-five percent (25%) of the required yard area shall be surfaced or utilized for driveway or vehicle storage space.

D. Design and Maintenance of Off-Street Parking Areas.

1. Parking Area Designed. Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access width shall be in accordance with the State of Minnesota Highway Department Standards, but in no case shall they exceed thirty-two (32) feet in width unless a conditional use permit has been obtained approving the large width. Driveway access shall be so located as to cause the least interference with traffic movement. There shall be only one (1) driveway access for each residential lot.
2. Calculating Space. When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
3. Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.
4. Surfacing. All of the area intended to be utilized for parking space and driveways shall be surfaced with a material to control dust and drainage. Parking areas for less than three (3) vehicle spaces shall be exempt.
5. Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction. (See Section 705.15)
6. Parking Space for Six or More Cars. When a required off-street parking space for six (6) or more cars is located adjacent to a residential district, a fence or screen not less than four (4) feet in height shall be erected along the residential district property line.
7. Maintenance of Off-Street Parking Space. It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fencing.

8. Access. All off-street parking spaces shall have access from driveways and not directly from the public street.
 9. Determination of Areas. The parking space per vehicle shall not be less than three hundred (300) square feet or an area equal to (the width of the parking space) multiplied by (the length of the parking space) plus eleven (11) feet.
 10. Distance from Building. No parking space shall be closer than ten (10) feet to any building.
 11. Fire Access Lanes. Fire access lanes shall be provided as required by the building or fire code.
- E. Off-street parking spaces shall not be reduced in number unless said number exceeds the requirements set forth herein.
- F. In no event shall off-street parking, structures of any type or other improvements cover more than seventy-five percent (75%) of the lot area. In no event shall the landscaped portion of the lot be less than twenty-five percent (25%) of the entire lot as a result of the permitted encroachments.
- G. Off-street parking space required one (1) space equals three hundred (300) square feet shall be as follows:

| | |
|-------------------------------|--|
| One and Two Family Residences | Two (2) spaces per dwelling unit. |
| Churches | One (1) space for each three (3) seats, or for other places of assembly, each five (5) feet of pew length, based upon maximum design capacity. |
| Offices | One (1) space for each two hundred (200) square feet of gross floor space. |
| Schools | Three (3) spaces for each classroom. |
| Uses Not Specifically Noted | As determined by the Planning Commission. |

Section 705.17: Reserved.

Section 705.18: Public Convenience Structures

- A. Public Convenience Structures. No public use or convenience structure shall be located within the public right-of-way except by a permit issued by the Town Board.

Such structures shall include, but not be limited to trash containers, institutional direction signs, bicycle racks, benches, planting boxes, awnings, flag poles, bus shelters, light standards, stairs, stoops, light wells, newspaper storage containers, loading wells, signs and others. Such structures do not include utility facilities.

Section 705.19: Agricultural Operations

- A. All Agricultural operations in existence upon the effective date of this Code shall be a permitted use. However, all regulations contained herein and other community codes and ordinances in effect shall apply to all changes of the agricultural operation which will cause all or part of the area to become more intensively used or more urban in nature.
1. Rural Agricultural Operations. Rural agricultural operations may occur on parcels of ten (10) or more contiguous acres. Rural agricultural operations may include the production of farm crops, such as vegetables, fruit trees, grain and other crops and their storage on the area, as well as for the raising thereon of farm poultry, domestic pets and domestic farm animals.
 2. Treating, Storing or Producing Retail Farm Market Products. Rural agricultural operations may include necessary accessory uses for treating, storing or producing retail farm market products; provided however, that the operation of any such accessory shall be secondary to that of the primary agricultural activity.
 3. Feedlots. Rural agricultural operations may not include commercial livestock pen feeding (feedlots) without first receiving a Minnesota Pollution Control Agency Feedlot Permit and conditional use permit from the Town Board.
 4. Commercial Feeding Operations. Commercial feeding operations shall not include the feeding of garbage to swine or other animals.
 5. Forestry Products and Processing. The storage and processing of forestry products may be permitted as a conditional use by action of the Town Board and subject to the following additional conditions.
 - (a) The operations of the conditional use must be on a lot which is being used as an occupied farm dwelling or non-farm dwelling.
 - (b) The lot upon which the conditional use is operated shall be not less than ten acres in area.
 - (c) The area devoted to the conditional use, including buildings, parking, storage area, and all related uses shall not exceed 15,000 square feet or

twelve percent (12%) of the size of the lot, whichever is smaller, subject to existing accessory building standards.

B. Livestock.

1. Prohibition of Manure Deposits Without Safeguards. No manure or livestock waste shall be deposited, stored, kept or allowed to remain in or upon any storage site or feedlot without reasonable safeguards adequate to prevent the escape or movement of such manure or waste or a solution thereof from the site which may result in pollution of any surface, groundwater or cause any health hazard.
2. Pollution Control Agency Standard Minimum Requirements. All regulations imposed by the Minnesota Pollution Control Agency relating to keeping livestock shall be adhered to, and such regulations shall be considered the minimum safeguards necessary to prevent pollution of surface, ground water or cause or create any health hazard. New livestock feedlots, poultry lots and other animal lots are prohibited within the following areas:
 - (a) Within one thousand (1,000) feet of the normal high water mark of any lake, pond or flowage; or within three hundred (300) feet of a river or stream.
 - (b) Within a floodway.
 - (c) Within one thousand (1,000) feet to the boundary of a public park.
 - (d) Within one-half (1/2) mile of the nearest point to a concentration of ten (10) or more private non-farm residences.
 - (e) On soils with seasonal water table within five feet or less from the surface or on soils shallow to bedrock or within 1,000 feet of a sink hole.
3. Permit Required. No feedlot or manure storage site shall be maintained unless a permit therefor has first been issued by the Minnesota Pollution Control Agency and by the Zoning Administrator as provided herein. The application for a permit by the owner or other person responsible for a feedlot or manure storage site, shall be accompanied by plans showing the features and method of operation and construction and existing or proposed safeguards of manure disposal systems. The governing body may thereafter issue a permit therefor upon such conditions as it shall prescribe to prevent pollution of any surface, ground water or cause to create any health hazard.

4. Inadequate Safeguards. In case the Town shall find that any manure is stored or kept on any feedlot or storage site without a safeguard, or that any existing safeguard is inadequate, it will be reported to the MPCA or Town Board.
5. Notice Concerning Loss. It shall be the duty of the owner of a feedlot or manure storage site or other responsible person in charge thereof to notify immediately the Town Clerk of any loss of stored manure either by accident or otherwise when such loss involves a substantial amount which would be likely to enter any body of water. Said notice shall be by telephone or other comparable means and shall be made without delay after discovery of the loss. The notification shall include the location and nature of the loss and such other pertinent information as may be available at the time.
6. Hazards and Nuisances. On parcels of less than forty (40) acres which are not part of a larger crop producing commercial agricultural farm, the keeping of horses, cattle or other domestic farm animals on a site with less than two (2) acres of existing grazable land per animal is hereby declared to be a nuisance. No domestic farm animals shall be placed on any site of less than five (5) acres.
7. Grazable Acres. Grazable acres shall be defined as open, non-treed acreage currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of one (1) animal unit or its equivalent, per two (2) acres. For purposes of these regulations, the following animal equivalents apply:

| Animal | Animal Units | Animal | Animal Units |
|--|--------------|--|----------------|
| 1 Mature Dairy Cow over 1,000 lbs | 1.4 | 1 Horse | 1.0 |
| 1 Mature Dairy Cow 1,000 lbs or less | 1.0 | 1 Sheep or Lamb | 0.1 |
| 1 Beef Cow | 1.0 | 1 Chicken w/liquid manure system | 0.033 |
| 1 Calf, beef or dairy, less than 700 lbs | 0.2 | 1 Chicken w/dry manure system: Over 5 lbs 5 lbs. or less | 0.005 0.003 |
| 1 Feeder Steer or Heifer | 0.7 | | |
| 1 Swine over 300 lbs | 0.4 | | |
| 1 Swine 55-300 lbs | 0.3 | 1 Turkey over 5 lbs | 0.018 |
| 1 Swine under 55 lbs | 0.05 | 1 Turkey 5 lbs. or less | 0.005 |
| | | 1 Duck | 0.01 |

For animals not listed in the table above, the number of animal units is the average weight of the animal in pounds divided by 1,000.

8. Keeping Domestic Farm Animals in Greater Density. The keeping of domestic farm animals in greater density than allowed by this section shall require a conditional use permit. To obtain such permit, the applicant must demonstrate that the facilities are appropriate at present and appropriate practices are being employed to prevent surface or ground water

contamination, excessive manure accumulation, odor, noise or other nuisances. The Town, upon a finding of a possible health hazards, may require the applicant to obtain a Minnesota Pollution Control Agency feedlot permit for the proposed use.

Section 705.20: Lots

A. Special Provisions.

1. Additions and Exceptions to Minimum Area, Height and Other Requirements.

- (a) Existing Lot. For the purpose of the Code, the term "existing lot" shall mean: A lot or parcel of land which was of record as a separate lot or parcel in the office of the Washington County Recorder or Registrar of Titles, on or before the date of adoption of this Code.
- (b) Minimum Area - Exception. Any such lot or parcel created in accordance with the community Subdivision Regulations and is at least two and one-half (2 1/2) acres in size shall be exempt from the requirements of Section 705.20 Subd. A, paragraph (1)(c) and (d) as follows and shall be considered buildable if the lot or parcel can comply with the remaining requirements of this Code.
- (c) 60% Rule. Any lot or parcel of land less than two and one-half (2 1/2) acres which is in a residential or agricultural district may be used for single family detached dwelling purposes provided the area and width thereof are within sixty percent (60%) of the minimum requirements of this Article, provided all setback requirements of this Article can be maintained; and provided it can be demonstrated that a safe and adequate sewage treatment system can be installed to serve the permanent dwelling.
- (d) Contiguous Lots. If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this Article, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this Article.
- (e) Subdivision of Lots. Any lot or parcel of land subdivided by any means after the effective date of this code, for purposes of erecting a structure, must be approved as required by the Town Code.

- (f) Lake and Stream Frontage Lots. All lots having frontage on a lake or stream shall be subject to the provisions of the County Shoreland Management Ordinance as well as the regulations provided by this Code. All lots on unclassified bodies of water in the Shoreland Management Ordinance shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland Management Ordinance.
- (g) Lots in the Floodplain. All lots in a designated floodplain shall be subject to the County Floodplain Ordinance as well as the regulations provided by this Code.
- (h) Reduction of Required Yard of Lot Size Prohibited. No yard shall be reduced in area or dimension so as to make it less than the minimum required by this Article, and if the existing yard is less than the minimum required, it shall not be further reduced. No required yard currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building. A required yard is the non-buildable area remaining after construction of a maximum square footage structure on a lot or parcel.

2. Setbacks.

- (a) Front Setbacks. Where a vacant buildable lot is adjacent to structures existing at the time of adoption of this Article having a substandard setback from that required by this section, the Town shall determine a reasonable, average, calculated front yard setback to implement the requirements of this section, and to full-fill its purpose and intent. However, in no case shall a building be required to be setback more than one hundred eighty (180) feet from the street centerline. In a residential district, the front yard setback shall conform to the established setback line, unless the Town determines that another setback is more appropriate as provided herein.
- (b) Setbacks along Arterials. Along County Roads and Streets designated as "Arterials" in the Comprehensive Plan, the minimum front setback for principal buildings shall be one hundred fifty (150) feet from the nearest planned street centerline.
- (c) Setbacks from Private Roads. All setback requirements of this section shall also be applicable to private roads and easement access rights-of-way.

3. Height.
 - (a) No structure shall exceed thirty-five (35) feet in height including church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flag poles, public facilities, transmission towers of private radio broadcasting stations, television antennae, except barns, silos and other farm structures, utility transmission services and transmission towers of commercial broadcasting stations excluding Wind Energy Conversion Systems (WECS).
 - (b) Parapet walls shall not extend more than four (4) feet above the height permitted of the building.
4. Private Sanitary Sewers. See Section 305.03, “Private sanitary sewers”.

Section 705.21: Temporary Health Care Dwellings

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the Town of May opts-out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates temporary family health care dwellings. This does not apply to or affect other regulations in the Town Code related to care facilities and temporary housing. (Amended Ord. 2016-04, Effective 8/11/16)

Section 705.22: Solar Energy Systems (Amended Ord. 2016-05, Effective 12/18/16)

- A. Solar Energy Systems. Solar energy systems may be allowed as an accessory use in all districts pursuant to the standards in this Ordinance. Solar energy systems cannot be a principal use of a property, and commercial-sized solar energy systems, or solar energy systems larger than what is permitted in this Ordinance, are not allowed. Solar energy systems must meet State Building and Electrical Codes.
- B. Building Mounted Solar Energy Systems. Solar energy systems are a permitted accessory use if materially and structurally attached to a dwelling, or accessory building used for another purpose, provided the system meets all performance standards in the zoning district related to height and setbacks, and this Ordinance. Building mounted solar energy systems must be roof mounted and not mounted on the sides of a building. Solar energy systems may not be mounted on fences, “back-yard” sheds and other structures incapable of supporting such systems.
- C. Ground Mounted Solar Energy Systems. Accessory ground mounted solar energy systems may be permitted on a lot with a principal residential structure, meeting the following conditions:

1. The square footage of a ground mounted solar energy system is determined by its coverage of the ground as viewed from directly above.
 2. The ground mounted solar energy system may not occupy more than fifty (50) percent of the allowed detached accessory building square footage (not including agricultural buildings) for the size of the lot in question, as defined in Section 705.05.C.1. of this Ordinance, or one thousand five-hundred (1,500) square feet in area, whichever is less. The ground mounted solar energy system shall not count towards the number or size of such buildings.
 3. The system shall not exceed fifteen (15) feet in height at maximum up-tilt.
 4. No storage shall be permitted underneath the system components, nor shall any area around the system be finished to create even a partially enclosed structure.
 5. The area under and around a ground mounted solar energy system shall not be maintained in violation of Town Code Article 506, Nuisances.
 6. Ground mounted solar energy systems shall meet all setbacks for accessory buildings. The Town Code Certificate of Compliance Ordinance that could allow such systems to be closer to the front lot line than the principal structure, cannot be applied to ground mounted solar energy systems.
 7. Ground mounted solar energy systems can be no closer to a lot line than to the principal structure.
- D. Ground mounted solar energy systems may be erected after a review by the Town Building Official is completed and a properly issued May Town Building Permit has been obtained, so long as the design meets all standards in this Ordinance and in the Town Code generally. No additional Town permit or certificate is required.
- E. Erecting a ground mounted solar energy system in violation of subsections C. and D. above may lead to a directive by the Town that the system be removed.

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ARTICLE 706: ANIMAL SLAUGHTERING AND PROCESSING

Section 706.01: General

It shall be unlawful for any person to slaughter animals or to custom process animals or to process animals or animal parts in the Town of May, except in conformance with this Ordinance.

Section 706.02: Intent and Purpose

It is hereby declared to be the policy of the Town of May to recognize that food, in its various forms, is essential to the health and well-being of the people of this Town, but that the unregulated slaughtering of animals may create health hazards, or otherwise jeopardize the public health and welfare of the residents of the Town. Therefore, in order to insure and protect the public health and welfare, the provisions of this Ordinance shall apply throughout the Town of May.

The Town Board is desirous of protecting and preserving the non-commercial nature of the Town as provided by the Comprehensive Plan, and the prohibition of slaughterhouses and custom processors is consistent with these policies.

The Town Board is aware that Minnesota Statutes Section 412.221, Subd. 22 authorizes the Town Board, by Ordinance, to prohibit or regulate the slaughter of animals, and the Town Board specifically states that this Ordinance is passed for those enumerated purposes.

Additionally, it is the intent of the Town Board to attempt to frame this Ordinance consistently with the definitions and regulations already in place in State Statute so as to provide for the consistent and convenient regulation of animal slaughtering.

Section 706.03: Definitions

- (1) Animal or Animals. Mean, but not be limited to: cattle; swine; sheep; goats; farmed deer, elk and the like; horses, mules and other equines; bison, buffalo and the like; ostrich, emu and the like; llamas, camels and the like; poultry and farmed waterfowl; wild game.
- (2) Custom Processing. Means slaughtering, eviscerating, dressing, or processing an animal or processing meat products for the owner of the animal or of the meat products, if any meat products derived from the custom operation are returned to the owner of the animal or of the meat products. No person may sell, offer for sale, or possess with intent to sell meat derived from custom processing except in conformance with this Ordinance.
- (3) Custom Processor. Means a person who slaughters animals or processes non-inspected meat for the owner of the animals, and returns the meat products derived from the slaughter or processing to the owner. "Custom processor" does not include a person

who slaughters animals or processes meat for the owner of the animals on the farm or premises of the owner of the animals.

- (4) Meat Food Product. Means a product usable as human or animal food and made wholly or in part from meat or a portion of the carcass of animals.
- (5) Place of Business. Means every location where food or food items are manufactured, processed, sold, stored, or handled, including buildings, locations, permanent or portable structures, carnivals, circuses, fairs, or any other permanent or temporary locations.
- (6) Sell or Sale. Includes the keeping, offering or exposing for sale, use, transportation, transferring, negotiating, soliciting, or exchange of meat or meat food products, or the having in possession with intent to sell, use, transport, negotiate, solicit or exchange the same and the storing or carrying thereof in aid of traffic therein, whether done or permitted in person or through others.
- (7) Slaughter House. Means any land, building, place or establishment in which animals are slaughtered, eviscerated, or dressed for human or animal food.

Section 706.04: Regulations

- A. No person may, with respect to any animal or meat food product, slaughter or process any animal or prepare a meat food product that is usable as human or animal food, at any establishment or place of business within the Town except in compliance with this Ordinance. Additionally, no person may operate any slaughter house or custom processing activity except in compliance with this Ordinance.
- B. The operation of a slaughter house or custom processing activity is not a permitted, accessory or conditional use in any zoning district within the Town, and is prohibited, except as permitted herein.

Section 706.05: Permitted Animal Slaughtering and Processing

- A. The following animal slaughtering and processing activities are permitted within the Town:
 - 1. In the Town's Agricultural Zoning District and on parcels of land at least ten (10) contiguous acres in size located in the Rural Residential Zoning District and which conform to Section 705.19, "Agricultural Operations," the following may be undertaken as an accessory use:
 - (a) The processing of a person's own animals on property owned by that person and the owner's preparation and transportation in intrastate commerce of the carcasses, parts of carcasses, meat, and meat food products of those animals exclusively for use by the owner and members of the owner's household.

- (b) Slaughtering of a person's own animals raised on site for a minimum period of time defined as, from a typical "feeder" age or size for the animal type to maturity, under only these conditions: (1) for the personal use of the person's family; or (2) for sale to the ultimate consumer.
- 2. The butchering, slaughtering or processing of any wild game taken by permit or license issued by the Minnesota Department of Natural Resources is a permitted accessory use in all zoning districts of the Town provided that the butchering or processing is done by the holder of the permit or license under which the game was taken, or is done for that person for no consideration.

Section 706.06: State and Federal Licenses or Permits

No person shall operate a slaughter house or custom processing facility unless that person has first obtained all required State or Federal licenses or permits.

Section 706.07: Separability

If any portion of this Article is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE 707: ZONING DISTRICT MAP

Section 707.01: Zoning District Map

The boundaries of the districts as established by this Code are as shown on the “Zoning” map published in the Town’s “Comprehensive Plan 2020” and made part of this Code. Said map is designated as the Official Zoning Map of the Town, and shall be maintained as provided herein by the Zoning Administrator. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are made a part of this Code by reference and incorporated herein as fully as if set forth herein at length. Whenever any street or public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.

When uses in a district are listed as both permitted and as conditional uses, or when any other conflict appears in this Chapter with respect to permitted uses within a district, the more restrictive provision shall be applied.

ZONING DISTRICTS

ARTICLE 708: USES IN AGRICULTURAL, RURAL RESIDENTIAL, CONSERVANCY, COMMERCIAL AND GENERAL BUSINESS DISTRICTS

Section 708.01: Agriculture District Established (AG)

The Agricultural District is established for the purpose of promoting the continued farming of agricultural lands.

A. Permitted Uses. The following uses are permitted in the AG Agricultural District:

- Agriculture
- Animals - Domestic Farm
- Animals - Domestic Pets
- Forests
- Nursery - Commercial (Production of Trees and Shrubs)
- Single Family Detached Residential Dwellings
- Structures - Historic, Scenic Landscapes, etc.
- Wildlife Reserves - Public or Private

B. Permitted Agricultural Use. All legally permitted agricultural operations in existence upon the effective date of this Code shall be a permitted use. However, all regulations contained herein and other community ordinances in effect shall apply to all changes of the agricultural operation which will cause all or part of the area to become more intensively used or become more urban in character. Setback and other regulations shall apply to agricultural operations just they do to urban developments.

C. Accessory Uses. The following accessory uses are permitted in the Agricultural District:

- Boat dock (non-commercial)
- Fences (Section 705.09)
- Garage (private) (as defined in Section 702.01)
- Incidental repair
- Landscaping and decorative features (Section 705.07)
- Off street parking (Section 705.16)
- Residential waterfront
- Uses; storage - incidental to the principal use
- Swimming pool residential
- Utility substations

Agricultural operations may include necessary accessory uses for treating, storing or producing retail farm market products; provided however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activity.

D. Conditional Uses. The following conditional uses may be permitted by a written Conditional Use Permit issued by the Town Board pursuant to Section 704.04.

- Animals - Commercial Training
- Antennae or Towers of 35 feet in height
- Essential Services - Government Uses, Buildings and Storage (as defined in Section 702.01)
- Essential Services - Transmission Services, Buildings and Storage (as defined in Section 702.01)
- Feed Lots- Commercial (Section 706.19)
- Home Occupations (Meeting Criteria) (as defined in Section 702.01)
- Interim Uses (Section 709)
- Mobile Home - Care Facility (Section 709.02(3))
- Nurseries - Day and School (as defined in Section 702.01)
- Parks
- Roadside Sales Stand (Seasonally Operated)
- Storage - Open (Section 705.10) Also see (Article 402 - Small Business Permit)
- Storage - As a Principal Use (Section 705.10)
- Storage - Not Accessory to a Permitted Principal Use (Section 705.10)
- Structure - Temporary or Interim Use
- Temporary Farm Dwelling (Section 708.01(G))

E. Physical Standards. All construction in the Agricultural District shall meet the following physical standards:

1. Height. The maximum height of all buildings shall not exceed the lesser of two and one half (2-1/2) stories or thirty-five (35) feet. This height limitation shall not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, smokestacks, or electric transmissions lines.
2. Density Per Dwelling Unit – Forty (40) acres.
3. Minimum Residential Lot Area Without Central Sewer and Water 2-1/2 Acres on approved soils.
4. Minimum Lot Width at Front Yard Setback Line 150 feet.
5. Setbacks. All buildings and structures, including houses with attached garages, shall meet or exceed the following setbacks:

Minimum Front Yard Setback 40 feet

| | |
|---|---------|
| Minimum Side Yard Setback | |
| From Street in Case of Corner Lot | 40 feet |
| From Interior Lot Line | 20 feet |
| Minimum Rear Yard Setback 50 feet | |
| Setback from Lakes, Rivers, Streams | |
| (From Ordinary High Water Mark) | 75 feet |

Regulations outlined in Washington County Shoreland Management Ordinance.

F. Performance Standards. Performance standards for detached agricultural buildings and domesticated farm animal buildings shall include the following:

1. Setbacks. All domestic farm animal buildings, feedlots and manure storage sites shall be setback as follows:

| <u>Natural or Man-Made Features</u> | <u>Minimum Horizontal Setbacks</u> |
|---|------------------------------------|
| (a) Any Property Line | 100 feet |
| (b) Any existing well or residential structure on the same parcel | 50 feet |
| (c) Any existing well or residential structure on adjacent or nearby parcel | 200 feet |
| (d) Any body of seasonal or year round surface water | 200 feet |

2. Slopes. Said building, feedlot or manure storage shall not be placed on slopes which exceed thirteen percent (13%).
3. Seasonally High Ground Water. Evidence of the seasonally high ground water level or mottled soil (as established by six (6) foot borings) shall not be closer than four (4) feet to the natural surface ground grade in any area within one hundred (100) feet of the proposed building and/or feedlot.
4. Wetland Use. No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot or grazing area, marsh or wetland. (See Article 809)

- G. Temporary Farm Dwelling. A mobile home may be permitted by conditional use permit in an agricultural district if the Zoning Administrator finds the following conditions are satisfied.
1. The mobile home will be an accessory dwelling unit located on a farm of at least seventy-five (75) acres in size.
 2. The mobile home will be occupied by persons who are:
 - (a) Members of the family of the persons occupying the principal dwelling house on the premises; and
 - (b) Engaged in the occupation of farming on the premises as partners or other business associates of the persons living in the principal dwelling house on the premises; and who earn fifty percent (50%) or more of their annual gross income for federal income tax purposes from such farming on the premises.
 3. The conditional use is so conditioned that it will expire and terminate at such time as the persons occupying the mobile home are no longer engaged in farming on the premises as required by paragraph 2 (b) above.
 4. At the time of termination of the conditional use permit, the mobile home temporary farm dwelling shall be removed from the premises within thirty (30) days when practical.
 5. The conditional use is conditioned so as to be reviewed annually by the Zoning Administrator.
- H. Interim Uses. Agri-Entertainment, specifically limited to corn maze, hay rides and “pick your own” produce, Kennels (private and business/commercial), Mining, Mobile Homes, Recreational Vehicles or Trailers, and Small Businesses are permitted in the Agricultural Zone as an Interim Use, if governed by an Interim Use Permit (IUP) issued by the Town Board pursuant to Article 709.

RURAL RESIDENTIAL DISTRICT

Section 708.02: Rural Residential District Established (RR)

The Rural Residential District is established for the purpose of providing for Residential development and Residential use, affording enjoyment of the rural life style. It is the intent of all portions of the Code governing Permitted, Accessory, Conditional and Interim Uses (“Uses”) within the Rural Residential District to ensure that the rural residential character of the community is preserved, by limiting the Uses to a secondary role, incidental to the primary use which is residential, and that the Uses must appear to be a secondary use of the property.

A. Permitted Uses. The following uses are permitted in the Rural Residential District:

- Agriculture
- Animals - Domestic Farm
- Animals - Domestic Pets
- Forests
- Parks
- Single Family detached Residential Dwellings
- Structures - Historic, Scenic Landscapes, Etc.
- Wildlife Reserves - Public or Private

B. All Agriculture Operations. All legally permitted agriculture operations in existence upon the effective date of this Article shall be a permitted use. However, all regulations contained herein and other community ordinances in effect shall apply to all changes of the agricultural operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to agricultural operations just as they do to urban developments.

C. Accessory Uses. The following Accessory uses are permitted in the RR Rural Residential District:

- Accessory Building (See Section 705.05)
- Boat Dock (non-commercial)
- Fences (See Section 705.09)
- Garage (Private Residential, See Section 705.05)
- Incidental Repair
- Landscaping and Decorative Features (See Section 705.07)
- Off-Street Parking (See Section 705.16)
- Residential Waterfront Uses

D. Conditional Uses. The following conditional uses may be permitted by a written Conditional Use Permit issued by The Town Board pursuant to section 704.04:

Animals - Commercial Training
 Antennae or Towers over 35 Feet in Height Except Wind Energy
 Conservation Systems (WECS)
 Care Facility
 Cemeteries
 Churches
 Essential Service - Government Uses Buildings and Storage (as defined in Section 702.01)
 Essential Services - Transmission Services, Buildings and Storage (as defined in Section 702.01)
 Feed Lots - Commercial (See Section 706.19)
 Grading
 Home Occupations (Meeting Criteria) (as defined in Section 702.01)
 Incidental Repair
 Interim Uses (See Article 709)
 Land Reclamation (See Section 705.13)
 Mobile Home - Care Facility (Section 709.02 (B)(3))
 Mobile Home - Temporary Farm Dwelling (Section 708.01(G))
 Recreation Areas - Commercial
 Recreation Areas - Private or Semi-Public
 Resorts
 Roadside Sales Stand (Seasonally Operated)
 Roads - Private (Cluster Developments)
 Schools - Public and Private
 Storage - Open (Section 705.10)
 Storage - Accessory to a Permitted Principal Use (Section 705.10)
 Structure - Temporary or Interim Use
 Temporary Farm Dwelling (See Section 708.01(G))

E. Physical Standards. All construction in the Rural Residential District shall meet the following Physical Standards:

1. Height. The maximum height of all buildings shall not exceed the lesser of two and one-half (2 1/2) stories or thirty-five (35) feet. This height limitation shall not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, smokestacks, electric transmission lines or wind generators.
 - (a) Density Per Dwelling Unit One Family Structure - 10 Acres
 - (b) Minimum Lot Area Per Dwelling Unit on Approved Soils - 2 1/2 Acres
 - (c) Minimum Lot Width at Front Yard Setback Line - 150'

- G. Suburban Agricultural Operations. Suburban Agricultural Operations may occur on parcels of less than ten (10) contiguous acres in all zoning districts. Suburban Agricultural Operations include the production of, and are limited to, crops such as fruit trees, shrubs, plants, flowers and vegetables, provided such produce is intended for the use of the residents on the property or for sale away from the property or for temporary seasonal produce sales which require no roadside stand.

Suburban Agricultural Operations may include the keeping of domestic farm animals provided:

1. The parcel is at least five (5) acres in size with at least two (2) grazable acres per animal unit as defined in Section 705.19.
2. An adequate animal shelter shall be made available to the animals.
3. A Minnesota Pollution Control Agency permit may be required and all regulations of any enforcement, regulatory or administrative body having jurisdiction must be followed.

Suburban Agricultural Operations shall not include roadside stands for sale of products, processing or packaging operations or similar uses.

H. Cluster Developments (Open Space Design).

1. Definition. A cluster development is a residential development in which a number of single family dwelling units are grouped on smaller lots while the over-all density requirement of one unit per ten (10) acres is maintained by combining smaller lots with open space. The following standards must also be complied with:
 - (a) The development parcel must be thirty-eight (38) or more acres in size as required by Chapter 9 of this Town Code including Section 901.12 and Section 901.14.05(A)(1).
 - (b) A density of ten (10) acres per single family dwelling must be maintained; and
 - (c) The preliminary plat shall show two (2) approved individual septic drainfields for each dwelling unit or plans and tests which provide adequate space for one (1) central septic drainfield and one (1) reserve or back-up area and which complies with County and State septic systems in effect at the time of the development; and
 - (d) A minimum lot size of 2 ½ buildable acres; and
 - (e) All utilities must be placed underground; and

- (f) All residential streets within the cluster development must be paved with a bituminous surface according to the Town of May Road Standards in effect at the time of the development; and
 - (g) That a development agreement be entered into with the Town of May.
2. All cluster development shall be required to file a final plat and or subdivision pursuant to the Town Subdivision Regulations within one hundred twenty (120) days after final approval.
 3. Density Bonus.

The Density Bonus for a Cluster Development (Open Space Design) Subdivision is subject to and governed by Chapter 9 of the Town Code, including Section 901.14.05.

I. Development Agreements.

1. A Development Agreement between the developers and the Town shall include but is not limited to the following information:
 - (a) The developer warrants to the town that he is the fee owner of the property or contract purchaser with the fee owner as co-signer on the development agreement; and
 - (b) The over all density for the development; and
 - (c) All terms for the construction and dedication of roads and road escrow (Section 708.02(I)(1)(d) and (e) below; and
 - (d) A cash escrow deposit shall be maintained by the developer for expenses incurred by the Town for its engineer, attorney, staff, and/or town officials in reviewing and inspecting the development and any expenses incurred by the Town for completion of the work in case of default by the developer under the development agreement, and for any damages sustained on account of any breach thereof.
 - (e) A performance bond from the developer for one hundred and twenty-five (125) percent of the total cost of the road, as estimated by the town engineer, and of improvements to be furnished and installed by the developer and said bond to be approved by the town attorney an irrevocable Letter of Credit or cash escrow from the developer, approved by the Town Attorney, for one hundred and twenty-five (125) percent of the total cost of the improvements as estimated by the Town Engineer, and held until released by the Town; and

- (f) The Open Space and its use is governed by and subject to Chapter 9 of this Town Code, including Sections 901.14.03, 901.14.04, and 901.14.05(A), (B), and (D).

J. Interim Uses. Agri-Entertainment, specifically limited to corn maze, hay rides and “pick your own” produce, Kennels (private and business/commercial), Mobile Homes, Recreational Vehicles or Trailers, and Small Businesses are permitted in the Rural Residential Zone as Interim Use Permit (IUP) issued by the Town Board pursuant to Article 709.

CONSERVANCY DISTRICT

Section 708.03: Conservancy District Established (C)

The Conservancy District is established for the purpose of providing for the preservation, protection and management of environmentally sensitive lands.

- A. Permitted Uses. The following uses are permitted in the Conservancy District:
(Amended by Ord. 2014-05, Effective 11/22/14)

Agriculture

- B. Accessory Uses. The following Accessory Uses are permitted in the Conservancy Districts: (Amended by Ord. 2014-05, Effective 11/22/14)

Landscaping and decorative features
Boat docks (non-commercial)
Fences (See Section 705.09)
Garage (private) (See Section 705.05)
Residential swimming pool
Off-street parking (See Section 706.16)
Residential waterfront use
Storage - incidental to the permitted use
Domestic Pets
Accessory buildings and structures incidental to the principal use

- C. Conditional Uses. The following conditional uses may be permitted by a written Conditional Use Permit issued by The Town Board pursuant to section 704.04:
(Amended by Ord. 2014-05, Effective 11/22/14)

Commercial, private, or semi-public recreation area
Educational Retreat Center
Home occupations (meeting criteria) (See Section 702.01, Definitions)
Nature centers
Parks, Private and Public
Residential, single family (See Section 705.04)

- D. Physical Standards. All construction in the Conservancy District shall meet the following physical standards.

1. Height. The maximum height of all buildings shall not exceed the lesser of two and one-half (2-1/2) stories or thirty-five (35) feet. This height limitation shall not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, smokestacks, or electric transmission lines.

2. Lot Area and Dimensions. Lot area shall be adequate to provide for all expected improvements and for the installation of two on-site Sewage Treatment Systems, but in no case shall lot area be less than two and one-half (2-1/2) acres. (Amended by Ord. 2014-05, Effective 11/22/14)

- (a) Lot Area Per Dwelling Unit – 20 acres
- (b) Minimum Lot Width at Front Yard Setback Line for Residential Uses – 150 feet
- (c) Minimum Lot Area for Non-Residential Uses – 40 acres
- (d) Minimum Lot Width at Front Yard Setback Line for Non-Residential Uses – 300 feet

3. Setbacks. All buildings and structures, including houses with attached garages, shall meet or exceed the following setbacks.

| | |
|---|---------|
| Minimum Front Yard Setback | 40 feet |
| Minimum Side Yard Setback | |
| From Street in Case of Corner Lot | 40 feet |
| Front Interior Lot Line | 20 feet |
| Minimum Rear Yard Setback | 50 feet |

GENERAL BUSINESS/COMMERCIAL

Section 708.04: General Business/Commercial District Established (GB)

The General Business-/Commercial District is established for the restricted purpose of providing for General Business/Commercial development compatible with the rural character of the Town.

- A. Accessory Uses. The following Accessory Uses are permitted in the General Business/Commercial District:

Fences (See Section 705.09)
Garage (Private, See Section 705.05)
Landscaping and Decorative Features (See Section 705.07)
Off-Street Loading (See Section 705.16)
Off-Street Parking (See Section 705.16)
Storage - Normally Incidental to the Principal Use

1. No accessory building in a General Business/Commercial District shall exceed the height of the principal building, except by conditional use permit.
2. Accessory buildings in the General Business/Commercial District may be located to the rear of the principal building, subject to the building code and fire zone regulations.

- B. Conditional Uses. The following conditional uses may be permitted by a written Conditional Use Permit issued by The Town Board pursuant to section 704.04:

Bars and Taverns
Ballrooms
Clubs or Lodges
Commercial Recreation
Essential Services - Government Uses, Buildings and Storage
Interim Uses (See Article 709)
Reduction or Processing of Refuse, Trash and Garbage
Schools - Public and Private
Structure - Temporary or Interim Use
Utility Substations

Conditional Uses accessory to an operating ballroom: garden center, greenhouse, agri-entertainment (specifically limited to corn maze, hay rides, “pick your own” produce), limited grocery staple sales, farmers’ market, outdoor sales of small sheds and gazebos, outdoor sales of seasonal agricultural products.

- C. Physical Standards. All construction in the General Business/Commercial District shall meet the following physical standards:

1. Height. The maximum height of all buildings shall not exceed the lesser of two and one-half (2 1/2) stories or thirty-five (35) feet. The height limitation shall not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.

2. Lot Area, Dimensions, and Restrictions. Lot Area shall be adequate to provide for all expected improvements and for the installation of two on-site Sewage Treatment Systems, but in no case shall Lot Area be less than two and one-half acres.
 - (a) Lot Area Per Unit One Family Structure - N/A
Minimum Lot Area Per Dwelling Unit in Cluster Development on Approved Soils - N/A

 - (b) Minimum Non-Residential Lot Area Without Central Sewer and Water - 2 1/2 Acres

 - (c) Minimum Lot Width at Front Yard Setback Line – 150 feet

 - (d) Setbacks. All buildings and structures shall meet or exceed the following setbacks:

Minimum Front Yard Setback 40 feet

Minimum Side Yard Setback
 Front Street in Case of Corner Lot 40 feet
 From Interior Lot Line 20 feet

Minimum Rear Yard Setback 50 feet

D. Dwelling Units in General Business/Commercial District.

1. Dwelling units for watchman and family shall be considered an accessory use and shall conform to all applicable regulations for the district in which located, except as herein modified.
 - (a) A dwelling unit in the General Business/Commercial District located in a commercial structure shall not occupy the front half of the ground floor or basement.

 - (b) A dwelling unit in a commercial building shall not contain more than one (1) bedroom.

- (c) No detached dwelling unit shall be permitted in the General Business/Commercial District.
- (d) A dwelling unit which is a part of the principal building shall be provided with two (2) exits; one (1) shall be a direct outside exit.
- (e) All buildings shall conform to the Building Code and applicable fire codes.

ARTICLE 709: INTERIM USES

Section 709.01: General Provisions

- A. Interim uses may be placed in agricultural and rural residential districts after obtaining an interim use permit.
- B. Interim uses and structures shall not require additional public roadway or premature extension of central sewer or water systems.
- C. The Town Board may specify the length of time which may be utilized for said interim use or structure. The specific length of time may be a condition of approval of the interim use permit.
- D. Grading or alteration of the site, except for driveway access and building construction shall not be permitted for interim uses or structures.
- E. Interim use permits issued by the Town Board for interim uses or structures shall be recorded with the Office of the County Recorder by the Town prior to the issuance of building permits or certificates of occupancy.
- F. The review standards and procedures for Interim Use Permits (IUPs) shall be the same as those defined in Section 704.04: Conditional Use Permits.

Section 709.02: Mobile Homes

- A. Mobile Homes Prohibited; Exceptions. No person shall park or occupy a mobile home (see definition, Section 702.01) on the premises of a lot with any occupied dwelling or on any land except as listed below.
- B. Mobile Homes; Interim Uses.
 - 1. Temporary Construction Office. A mobile home may be permitted as an interim use in any district if the Town Board finds the following conditions are satisfied.
 - (a) The mobile home will be utilized as a field headquarters for directing the ongoing construction of a project.
 - (b) Only one (1) mobile home shall be permitted on each project.
 - (c) The mobile home shall have adequate sanitary facilities or the site shall have temporary sanitary facilities installed.
 - (d) The mobile home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveway.

- (e) The mobile home shall not be used as a dwelling unit.
 - (f) The mobile home shall not be placed on the construction site until both an interim use permit and a building permit have been issued.
 - (g) Such a permit shall expire when construction is completed or within one hundred eighty (180) days after the date of issuance, whichever is less. Renewal of such a permit may be approved by the Zoning Administrator.
 - (h) The mobile home shall be removed within thirty (30) days of the permit termination. No certificate of occupancy shall be issued until the mobile home is removed.
2. Temporary Dwelling Unit During Construction. A mobile home may be permitted by interim use in any district if the Town Board finds the following conditions are satisfied.
- (a) The mobile home will be utilized as a temporary dwelling unit by the present or potential occupant of a single family residence during the construction, reconstruction or alteration of said residency by the present or potential occupant.
 - (b) The mobile home shall have adequate sanitary facilities as prescribed by the community building official/sanitarian and County Public Health Department.
 - (c) The interim use permit is issued only after the building permit has been obtained for the proposed construction.
 - (d) The mobile home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveways.
 - (e) Such a permit shall expire when construction is completed or within one hundred eighty (180) days from the date of issuance whichever is less. Renewal of such permit may be approved by the Zoning Administrator.
 - (f) The mobile home shall be removed within thirty (30) days of the permit termination. No certificate of occupancy shall be issued until the mobile home is removed.

3. Care Facilities.

- (a) A mobile home may be permitted by interim use permit in an agricultural district (AG) or rural residential district (RR) if the Town finds the following conditions are satisfied:
 - (i) The mobile home will be an accessory dwelling unit to be occupied by persons who are:
 - (a) Infirm to the extent that they require extraordinary care; and
 - (b) That such care can only be provided, without great hardship, by family members residing in the principal dwelling house on the premises; and
 - (c) The infirmity and the need for care required by (a) and (b) above shall be show by written statement of a physician.
 - (ii) The permit is so conditioned that it will expire and terminate at such time as the care facility is no longer the residence of the person or persons suffering from the infirmity which requires such care, or at such time as such care is no longer required.
 - (iii) At the time of termination of the permit, the mobile home care facility shall be removed from the premises within thirty (30) days when practical.
 - (iv) The interim use permit is so conditioned so as to be reviewed annually by the Town.

4. General Mobile Home Standards.

- (a) All mobile homes permitted under this section shall meet or exceed the current Federal Mobile Home Construction and Safety Standards. The mobile home shall have a sanitary sewer treatment and disposal system in compliance with Chapter 305 of the May Town Municipal Code, the Minnesota State Pollution Control Agency and Health Department. (See definition for Mobile Homes).
- (b) When the mobile home is utilized as an accessory dwelling unit, the placement of the mobile home is subject to the same zoning district dimensional setbacks as the principal dwelling unit.

- (c) Mobile homes utilized as accessory dwelling units shall use the existing road access driveway of the principal dwelling unit.
- (d) Mobile homes utilized as accessory dwelling units shall be separated by a minimum horizontal distance of forty (40) feet from any other structure.
- (e) Mobile homes utilized as accessory dwelling units shall have ground anchors or tie downs as approved by the State of Minnesota Mobile Home Code.

Section 709.03: Camper, Travel Trailer, or Other Recreational Vehicle Regulations

- A. A camper, travel trailer, or other recreational vehicle of the type generally used temporarily as living quarters during the hunting, fishing or vacation seasons and duly licensed and registered under the laws of the State of Minnesota may be parked on residential property in the town, provided however, that such camper or travel trailer shall not, while so parked, be used as a dwelling place or living quarters.
- B. A camper, travel trailer or other recreational vehicle parked on a lot within an agricultural or residential district shall comply with all parking and building setbacks for the zoning district and shall only utilize the existing permitted access driveway into the site.
- C. A camper or travel trailer or other recreational vehicle may not be parked on any land outside of an approved trailer park or an approved sales lot, except that the parking one (1) unoccupied trailer, less than twenty-five (25) feet in length, in an accessory private garage, building or in the rear yard of a residential district is permitted provided that no living quarters shall be maintained or any business practices in said trailer while it is so parked or stored.
- D. A camper, travel trailer, or other recreational vehicle of the type described in paragraph A above and owned by a non-resident, guest or visitor may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed thirty (30) days while visiting the resident of said property. The recreation vehicle or trailer shall have self-contained sanitary facilities or standard on-site facilities as required by the building official.
- E. The Town Board may, upon application, grant an interim use permit for the use of a camper, travel trailer, or other recreational vehicle for temporary residential purposes within the community in conjunction with a home construction project that is underway, provided however, that a duly authorized and valid building permit shall have been approved by the building official prior to the application for an interim use permit.

1. The applicant for said permit shall file an application with the Zoning Administrator setting forth the area in which said trailer is to be located, together with a copy of the building permit for the home to be constructed on said property.
2. The term of said permit shall not exceed one hundred eighty (180) days or upon receipt of certificate of occupancy of the residential home in question, whichever comes first. Upon the expiration of said permit, use as a temporary residence shall terminate.
3. The Town Board may attach such conditions and obligations to the issuance of said permit as deemed necessary to protect the health, safety and general welfare of the citizens of the community.
4. The camper, travel trailer, or other recreational vehicle shall be removed within thirty (30) days of the permit termination.

Section 709.04: Mining, Sand and Gravel Excavation

Mining, Sand and Gravel Excavation as defined and governed by Article 401, is an “Interim use” in all Zoning Districts where it is allowed. From the effective date of this ordinance all future mining permits should be identified as a Mining Interim Use Permit (IUP).

Section 709.05: Small Businesses

A Small Business as defined and governed by Article 402, is an “Interim Use” in all Zoning Districts where it is allowed. From the effective date of this ordinance, Small Businesses properly operating under a Town of May Small Business License or Conditional Use Permit (CUP) may continue to do so, unless and until the Town replaces their License or CUP with a Small Business Interim Use Permit (IUP).

Section 709.06: Kennels

Kennels, as defined in Article 501, are an “Interim Use” in all Zoning Districts where they are allowed, whether Private Kennel, Small Business Kennel or Commercial Kennel. From the effective date of this ordinance, Kennels operating under a Town of May permit may continue to do so, unless and until the Town replaces their permit with a Kennel Interim Use Permit (IUP).

Section 709.07: Agri-Entertainment

Agri-Entertainment, specifically limited to corn maze, hay rides, and “pick your own” produce.

ARTICLE 710: ENFORCEMENT

Section 710.01: Violations and Penalties

- A. Violations. The violation of any provision of this Code or the violation of the conditions or provisions of any permit issued pursuant to this Code shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine, imprisonment or both; plus in either case, the cost of prosecution.
- B. Penalties. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues, shall constitute a separate offense.
- C. Application to Town Personnel. The failure of any officer or employee of the Town to perform any official duty imposed by this Code shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
- D. Equitable Release. In the event of a violation or the threatened violation of any provision of this Code or any provision or condition of a permit issued pursuant to this Code, the Town, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.

Chapter 8

ENVIRONMENTAL PROTECTION

ARTICLE 801: AIR POLLUTION

Section 801.01: Adoption of State Air Pollution Standards by reference

- A. The following Minnesota Pollution Control Agency Air Quality Division Air Pollution Control regulations, as amended from time to time, are hereby adopted as the air pollution code for the Town of May:
1. Minnesota Rules Chapter 7005.0550 (Control of Fugitive Particulate Matter);
 2. Minnesota Rules Chapter 7005.0700 to 7005.0820 inclusive (Open Burning Restrictions and Permitting Requirements);
 3. Minnesota Rules Chapter 7005.1150 to 7005.1200 inclusive (Standards of Performance for motor Vehicles and Stationary Internal Combustion Engines).

One copy of the above referenced regulations is on file in the office of the Town Clerk of the Town of May. Such regulations are hereby incorporated in this ordinance as completely as if set out in full.

ARTICLE 802: NOISE POLLUTION
(See Article 506, Section 506.09)

ARTICLE 803: FLOODPLAIN

Section 803.01: Model Floodplain Article

Adoption of Model Floodplain Ordinance: There is hereby adopted for the purpose of regulating land within the floodplain, the Model Floodplain Ordinance for communities in Washington County as adopted on July 6, 1972, as amended by the Washington County Board of Commissioners, of which not fewer than three copies are on file in the office of the Town Clerk. That said Model Floodplain Ordinance is hereby adopted in its entirety.

ARTICLE 804: FOREST PROTECTION ORDINANCE

Section 804.01: Findings and Purpose

- A. The Town of May finds that the preservation of trees and woodlands within the Town is critical to the health, safety and welfare of the citizens of the Town and that existing and potential development within the Town has the effect of reducing and in some cases eliminating wooded areas. Wooded areas, if preserved and maintained, serve important ecological, recreational and aesthetic functions to the benefit of existing and future residents of the Town of May.
- B. Therefore, the purposes of this Article are to:
1. Preserve woodlands and trees on individual sites;
 2. Protect the safety of residents by preventing wind and water erosion, slope instability and rapid runoff;
 3. Promote the health of residents by encouraging more wooded areas which absorb air pollutants, contaminants and noise;
 4. Increase rainfall infiltration to the water table;
 5. Provide a diversified environment for many kinds of animals and plants, necessary for wildlife maintenance and important to aesthetic values;
 6. Promote recreational requirements of the area; and
 7. Promote energy conservation by shading buildings in the summer and breaking winds in the winter.

Section 804.02: District Boundaries

This Article shall apply to woodland districts which are delineated on the official zoning map of the Town of May. For purposes of determining the application of this Article to any particular parcel of land, the above-referenced map shall be on file in the office of the Town Clerk, and shall be available for inspection and copying.

Section 804.03: Definitions

- (1) Crown Cover - the ratio between the amount of land shaded by the vertical projection of the branches and foliage area of standing trees to the total area of land, usually expressed as a percentage.

- (2) Development - the construction, installation or alteration of any structure, the extraction, clearing or other alteration of terrestrial or aquatic vegetation, land or the course, current or cross section of any water body or water course or the division of land into two or more parcels.
- (3) Development Permit - any building permit, grading permit, zoning permit, plat approval, rezoning, certification, conditional or special use permit or variance.
- (4) Dimensional Requirement - minimum and maximum setbacks, yard requirements and/or structure height or size restriction established in the zoning code.
- (5) Structure - anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures.
- (6) Tree - any woody plant that has at least one trunk whose diameter four feet above the ground is four inches or greater.
- (7) Person - any individual, firm, corporation, partnership, association, or other private or governmental entity.
- (8) Woodland - a group of trees at least one half acre in area and with a crown cover of fifty percent or greater.

Section 804.04: Restrictions

- A. Development Permits. No development permit shall be issued for development within the Town until the Town Board finds and determines that the development will comply with the following:
 1. Development shall be conducted so as to facilitate the preservation of open space and agricultural land, and such that homes be visually absorbed into woodlands if possible, as specified in 901.14.05 of this Code.
 2. Grading, contouring and paving shall not detrimentally affect the root zone, aeration and stability of existing trees and existing trees shall be provided with a watering area equal to at least one half the crown cover.
 3. Development shall not reduce the existing crown cover by more than 50%. If more than 50% is removed, the permittee will restore the required density of trees utilizing nursery stocks of a size accepted as suitable for the purpose to that which existed before development, provided that in no case the density exceed ten trees per acre.
 4. Trees used in reforestation or landscaping must be compatible with the local landscape and conditions and not presently under disease epidemic.

- (a) Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees, shall not be prohibited.

**ARTICLE 805: LOWER ST. CROIX RIVER BLUFFLAND
AND SHORELAND MANAGEMENT**

Section 805.01: Adoption of Model Lower St. Croix River Bluffland and Shoreland Management Ordinance

There is hereby adopted for the purpose of regulating the Lower St. Croix River Bluffland and Shoreland the Model Lower St. Croix River Bluffland and Shoreland Management Ordinance for communities in Washington County adopted on July 21, 1992, as amended by the Washington County Board of Commissioners, of which not fewer than three copies are on file in the office of the Town Clerk. That said Model Shoreland Management Ordinance and its amendments thereto are hereby adopted in its entirety.

ARTICLE 806: SHORELAND MANAGEMENT

Section 806.01: Adoption of Model Shoreland Management Ordinance

There is hereby adopted for the purpose of regulating shoreland management, the Model Shoreland Management Ordinance for communities in Washington County adopted on July 1972, as amended, by the Washington County Board of Commissioners, of which not fewer than three copies are on file in the office of the Town Clerk. That said Model Shoreland Management Ordinance and its amendments thereto are adopted in its entirety.

ARTICLE 807: SOIL EROSION

Section 807.01: Adoption of Model Soil Erosion Article

There is hereby adopted for the purpose of regulating land use in accordance with its capabilities, an Model Soil Erosion Article in the Town of May, Washington County.

Section 807.02: Purpose

The purpose of this Article is to encourage and guide the use of land in accordance with its capabilities to prevent the degradation of lands, streams, rivers, lakes and wetlands and to protect and promote the health, safety and general welfare of the people in the Town of May.

Section 807.03: Scope

This Article and soil loss limits specified within the Article, apply to all land within the Town of May, including, but not limited to, agricultural land, woodland, pasture land, open space and land subject to development activity.

Section 807.04: Definitions

For the purpose of this Article, the following terms have the meaning given them in this Chapter:

- (1) Agricultural Use. Means use of land for the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock including sod, fruit, vegetables, forage and cash grains, forestry, or bees and apiary products. Wetlands, pasture, and woodlands accompanying land in agricultural use are also in agricultural use.
- (2) Conservation Plan and Time Schedule. Means a document listing a set of practices that when implemented will decrease soil erosion to the soil loss limits on a particular parcel of land. The "time schedule" sets times to implement, make satisfactory progress, and complete the conservation plan.
- (3) Conservation Practices. Means practices and standards containing a definition, purpose, and conditions under which the practice applies, including design requirements, and specifications containing a statement of details required for installing a conservation practice, including kinds, quality, and quantity of work and materials needed to meet the standards.

A conservation practice may be permanent or temporary, vegetative or structural measure that when applied to the land, will contribute to the control of wind and water erosion and sedimentation. Conservation practices may be used in a development activity area or an agricultural use area.

Permanent Practices are those that have an effective life of ten years or more and include grassed waterways, terraces, field windbreaks, water control structures, grade stabilization structures, sediment retention structures, stripcropping, water and sediment control basins, and other permanent practices approved by the Minnesota Board of Water and Soil Resources.

Temporary Practices include conservation tillage, contour farming, grasses and legumes in rotation, emergency tillage, fabric filter barriers, filter strips, stormwater inlet and outlet protection and any other cultural practices approved by the Minnesota Board of Water and Soil Resources.

The field office technical guide or other recognized technical procedures shall be used to design, install, and certify practices.

- (4) Development Activity. Means a physical disturbance, excluding agricultural use, of the land associated with activities that may result in sedimentation of adjacent lands or waters. These activities include, but are not limited to, clearing, grading, excavating, construction, transporting, draining, filling lands, utility installation and all land disturbing activities. This includes federal, state, county, and township road construction designed and installed according to Department of Transportation standard specifications for construction are not development activities.
- (5) District. Means a Soil and Water Conservation District organized under Minn. Stat. 301B.
- (6) Erosion. Means any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.
- (7) Excessive Soil Loss. Means soil loss that is greater than the soil loss limits set out in Soil Conservation Service Published Soil Survey or which causes sedimentation on adjoining land or in a body of water, watercourse, or wetland.
- (8) Field Office Technical Guide. Means the guide developed by the United States Department of Agriculture, Soil Conservation Service and adopted by the district. The technical guide contains methods and procedures by which the various types of erosion can be estimated and conservation practice standards and specification required in the application of soil and water conservation practices. This guide is available from the Washington Soil and Water Conservation District.
- (9) Land Occupier. Means a person, firm, corporation, municipality, or other legal entity that holds title to or is in possession of any land as owner, lessee, renter, tenant, or otherwise. The term includes both the owner and the occupier of the land if they are not the same.

- (10) Sediment. Means solid mineral or organic material, that, in suspension, is being transported, or has been moved from its original site by air, water, gravity, or ice, and has been deposited at another location.
- (11) Sedimentation. Means the process or action of depositing sediment that, upon inspection, is determined to have been caused by erosion.
- (12) Sedimentation Control Plan; Time Schedule. "Means a document listing a set of practices that, when implemented, will decrease sedimentation to the allowable level on a particular parcel of land. A "time schedule" must set times to implement, make satisfactory progress on, and complete the "sedimentation control plan."
- (13) Soil. Means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for growth of land plants.
- (14) Soil Loss Limit. Means the maximum amount of soil loss from water or wind erosion, expressed in tons per acre per year, allowed on a particular soil. The soil loss limits for soils found in the Town of May, are the soil loss tolerances for each soil services as described in the Field Office Technical Guide. The United States Department of Agriculture Soil Conservation Service has prepared a soil survey for Washington County that sets out the soil loss tolerances, according to the Field Office Technical Guide, for each soil series found in Washington County. The official Washington County Soil Survey is adopted by reference and declared to be a part of this Article. The official Washington County Soil Survey shall be on file in the offices of the County Auditor, Town Clerk and Town Building Inspector. The soil loss limit for each soil series found in May Township is set forth on Attachment A annexed hereto and incorporated by reference herein.
- Any other soil found in the Town of May and not listed herein has a maximum soil loss tolerance of 5 tons per acre per year.
- (15) Soil Loss Tolerance. Means the maximum level of soil erosion that will permit a high level of crop productivity to be sustained economically and indefinitely.

Section 807.05: Excessive Soil Loss Prohibited

A person may not cause, conduct or authorize an activity that causes excessive soil loss.

Section 807.06: Agricultural Activity

A land occupier shall:

- A. if engaged in an agricultural use, prevent excessive soil loss and ensure that proper management and conservation practices are being applied to the land;

- B. if using wooded or open land for pasture, ensure that proper management is used to prevent excessive soil loss due to overgrazing or other cattle related erosion.
- C. if using wooded land for timber harvest, ensure that proper management is used to prevent excessive soil loss; and
- D. if a body of water, watercourse, or wetland is located within an agricultural use area, wooded or open land used for pasture, or a wooded area used for timber harvest, ensure that property management and conservation practices are being applied to the intended land use area.

Section 807.07: Development Activity

A person engaged in a development activity that will disturb land shall submit a sedimentation control plan and time schedule that will prevent excessive soil loss or sediment from damaging adjacent land, bodies of water, watercourses, or wetlands, to the Town of May Board or its agent for approval.

- A. A land occupier engaged in a development activity shall not be required to develop a sediment control plan and shall not be considered in violation of 807.06 when involved in one of the following activities:
 - 1. Minor land disturbance activities such as home gardens and individual home landscaping, repairs, and maintenance work;
 - 2. Construction, installation, maintenance of electric, telephone and utility lines involving individual service connection to main utility line;
 - 3. Septic tank lines or drain fields included in an overall plan for a land development activity relating to construction of a building to be serviced by the septic tank system;
 - 4. Preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development;
 - 5. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; and
 - 6. Emergency work or repairs to protect life, limb or property.

Section 807.08: Exemptions

- A. A land occupier of agricultural land is not violating Section 807.06 if he is following a Soil and Water Conservation District plan, as developed in accordance with this Article, showing that existing farming practices and methods are being effectively applied to control soil loss.

- B. A land occupier engaged in federal, state, county, municipal, or township road construction and maintenance is not violating Section 807.06 if the road construction and maintenance is designed and installed according to Department of Transportation standard specifications for construction and maintenance.

Section 807.09: Soil Erosion Control for Agriculture Use

- A. Complaint. A citizen, adversely affected land occupier, and elected or appointed official of the Town of May or a district board member may submit a signed, written complaint to the Town of May Board if conditions exist that indicate there is excessive soil loss from tract of land.
 - 1. Elements of complaint. The signed, written complaint shall contain:
 - (a) The name and address of the allegedly offending land occupier;
 - (b) The location of the tract of land with the alleged excessive soil loss;
 - (c) Other land or water that is allegedly being affected by the excessive soil loss; and
 - (d) A description of the nature of the alleged excessive soil loss and resulting sedimentation.
 - 2. Complaint to District. The Town shall submit the complaint to the Soil and Water Conservation District for soil loss determination within ten (10) working days. The Town shall notify the alleged offending land occupier of the complaint and that the SWCD will be contacting the land occupier to review the site, and determine the severity of the problem and shall enter the complaint referral into the official Town Board minutes.

Section 807.10: District Determination of Soil Loss

The District shall determine the average annual soil loss in tons per acre per year for the tract of land cited in the complaint.

- A. Entry for inspection. The District may enter public or private land upon permission of the landowner to make an inspection to determine soil loss or to complete the report. The land occupier shall be notified of the time of the inspections and be given an opportunity to be present when the inspection is made.
 - 1. The land occupier shall be notified of the time of inspection ten (10) days prior to the date of inspection.
 - 2. The notice shall be delivered either by personal service or by certified mail.

3. If the owner of the property and the occupier of the residence differ, both shall receive notification under the procedure stated above.

Section 807.11: Report

The District shall submit a report in a timely manner to the Town of May Board that states the average soil loss in tons per acre per year for each tract of land and whether that soil loss is excessive under the applicable soil loss limits.

- A. If the soil loss is excessive, the report shall include identification of existing farming practices and a preliminary conservation plan and time schedule that will prevent excessive soil loss.
- B. If the District report shows that soil loss from the tract of land is equal to or below the soil loss tolerance for that soil series, the Town of May Board shall dismiss the complaint and notify the land occupier.
- C. In either instance, the final report from the District shall be entered into the Town Board minutes.

Section 807.12: Notice of Excessive Soil Loss

The Town of May shall issue a notice of excessive soil loss to the land occupier. The notice shall:

- A. Describe the land and state the extent to which soil loss exceeds the soil loss limits;
- B. Be delivered by either personal service or by certified mail; and
- C. State a time, not more than 90 days after the date of delivery of the order, by which mediation shall be commenced.

Section 807.13: Appointment of Mediator

The Town of May Board may appoint the Washington Soil and Water Conservation Service to act as mediator. The Town of May also contract with an outside mediator.

Section 807.14: Settlement

The land occupier and the Town of May shall attempt to agree on a conservation plan and time schedule that will reduce soil loss to the local soil loss limits.

Section 807.15: Filing of Settlement

A mediated settlement shall be approved by the Town of May and the land occupier, put in writing, and filed with the county.

Section 807.16: Cost-Share Funds

The land occupier has 90 days after the settlement is filed to apply for state or federal cost share funds, if available, that may provide up to 75 percent of the cost of the permanent conservation practices. Only 50 percent cost-share may be provided if the application is not made within 90 days after the settlement is filed. The land occupier may apply for 50 percent cost share within 270 days after the mediated settlement is filed.

Section 807.17: Penalty

A land occupier who does not comply with the provisions of the mediated written agreement may be subject to additional court procedures.

Section 807.18: Forwarding Complaint to Town Attorney

If the Town and land occupier do not reach a mediated settlement, or if the land occupier refuses to participate in mediation, the Town shall forward the complaint to the Town Attorney. The Town Attorney may petition the District Court for a hearing under Section 807.19.

Section 807.19: District Court Hearing

If the land occupier and the Town do not reach a mediated written agreement or if the land occupier has refused mediation, the Town Attorney may petition the District Court for a hearing. The land occupier may present a conservation plan and a time schedule as an alternative to the Township's conservation plan and time schedule. The court shall follow the procedure and the criteria set out at Minnesota Rules, part 8400.4055 in issuing an order for the implementation of a conservation plan and time schedule. Minnesota Rules, part 8400.4055 are available for review at the Town Clerk's office.

- A. Cost-Share Funds. If the court orders the implementation of:
1. The land occupier's conservation plan and time schedule, amends the conservation plan and time schedule, or develops a new conservation plan and time schedule, the land occupier is eligible to apply for cost share assistance for permanent conservation practices. The land occupier shall apply for the cost-share within 90 days after the court order. If the land occupier does not apply within 90 days for the cost-share funds, the cost-share must be reduced to 50 percent. The court shall establish a time when the land occupier is not eligible for cost-share funds if an application is not made; or

2. The conservation plan and time schedule developed by the township and the land occupier shall be eligible for 50 percent cost share funds if the land occupier applies within 90 days after the court order.
- B. Penalty. If the land occupier does not comply with the provisions of the court order, the land occupier may be subject to criminal or civil penalties.

Section 807.20: District Assistance

A land occupier who has filed a mediated written settlement under Section 807.14 or who has received a court order under Section 807.19 may request the District to assist in the planning, design, and application of practices necessary to reduce soil loss to the soil loss limits set out in Article 807(Table A). The District must give the land occupier a high priority for technical and cost share assistance.

Section 807.21: Cost-Share Application

The method of application and eligibility requirements for cost-share funds shall follow Minnesota Rules 8400.0100 to 8400.2900. If any other state or federal cost-share funds are used, the method of application and eligibility requirements shall follow the current state or federal guidelines. Minnesota Rules 8400.0100 to 8400.2900 are available for review at the Town Clerk's office.

Section 807.22: Soil Erosion Control for Development Activities

Sedimentation control plan for development activities.

- A. Sedimentation control plan. A person engaged in a development activity that will disturb land shall submit a sedimentation control plan and time schedule that will prevent excessive soil loss or sediment from damaging adjacent land, bodies of water, watercourses, or wetlands, to the Town Board or its agent for approval.
- B. A sedimentation control plan and time schedule must specify how the movement of soil and damage to other lands and regions will be minimized, during the construction process, these methods include, but are not limited to, the use of: temporary and permanent seeding, fabric, or straw bale barriers, mulch, sediment control basins, other conservation practices adequate to prevent erosion and sediment damage.
- C. A sedimentation control plan shall not be required for the following development activities:
 1. Minor land disturbance activities such as home gardens and individual home landscaping, repairs, and maintenance work;
 2. Construction, installation, maintenance, of electric and telephone utility lines for individual service connection to the main utilities lines;

3. Septic tank lines or drainage field included in an overall plan for a land development activity relating to construction of a building to be served by the septic tank system;
 4. Preparation for single-family residences separately built, unless in conjunction with multiple construction in a subdivision development;
 5. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles; and
 6. Emergency work and repairs to protect life, limb, or property.
- D. The following shall be addressed in developing and implementing a sedimentation control plan:
1. Stabilization of denuded area and stockpiles;
 2. Establishment of permanent vegetation;
 3. Protection of adjacent areas;
 4. Timing and stabilization of sediment trapping measures;
 5. Use of sediment basins;
 6. Stabilization of cut and fill slopes;
 7. Stormwater management for controlling off-site erosion;
 8. Stabilization of waterways and outlets;
 9. Storm sewer inlet protection;
 10. Working in or crossing waterbodies;
 11. Underground utility construction;
 12. Construction of access roads;
 13. Disposition of all temporary measures; and
 14. Maintenance of all temporary and permanent urban conservation practices.

- (a) The time schedule accompanying the sedimentation control plan shall establish deadlines for the implementation and completion of each phase or element of the sedimentation control plan.

Section 807.23: The Minnesota Construction Site Erosion and Sediment Control Planning Handbook

The Minnesota Construction Site Erosion and Sediment Control Planning Handbook shall be the minimum planning standard for a sedimentation control plan. Any other procedures shall be approved by the local unit of government and the district prior to its use. The Minnesota Construction Site Erosion and Sediment Control Planning Handbook shall be available at the Town Clerk's office.

Section 807.24 Conservation Practice

Any conservation practice developed for the sedimentation control plan may not be in violation of any existing article that the Town of May is currently enforcing.

Section 807.25: Review

The Town may appoint the Zoning or Planning Administrator, Building Inspector, Engineer or District to review the sedimentation control plan and time schedule.

The Town shall forward the sedimentation control plan and time schedule to the appointed reviewer within ten (10) days of receiving the sedimentation control plan and time schedule from the land occupier.

The appointed review shall review the sedimentation control plan and time schedule within 21 days of receiving the plan from the Township. The Town shall notify the land occupier of its decision after receipt of the comments from the reviewer and no more than 28 days after receiving the sedimentation control plan and time schedule from the reviewer.

Section 807.26: Permit Required

If the reviewer determines that the sedimentation control plan and time schedule will control sedimentation, the Town shall issue a permit that authorizes the development activity contingent upon the implementation and completion of sedimentation control plan.

If the review recommends to the Town that the sedimentation control plan and time schedule do not control sedimentation, the Township may not issue a permit for the development activity. The sedimentation control plan and time schedule shall be re-submitted for approval before the development activity begins.

Section 807.27: Penalty

A person engaged in a development activity which requires a sedimentation control plan and who does not secure a sedimentation control plan and time schedule or make satisfactory progress to complete the plan and schedule is subject to a civil penalty.

Section 807.28: Establishment of Cost-Share Funds

Except for development activity, a land occupier is entitled to apply for cost-share funds in the amounts set in Section 807.16 and 807.19A.

If cost-share funds are not currently available, the land occupier and the District shall enter into a priority cost-share assistance contract for future cost-share funds. The priority cost-share assistance contract shall state the percentage of cost-share funds as set in Section 807.16 and Section 807.19A.

With the approval of the priority cost-share assistance contract, the land occupier shall be in compliance with the mediated or court ordered agreement.

Section 807.29: Variance

A land occupier may petition the local government for a variance from the Article.

- A. The land occupier must document in the variance application the technical unfeasibility for the petition.
- B. Procedures for hearing such a variance petition shall be the same as are outlined in Chapter 7, Section 704.03 of the Zoning Code of the Code of Ordinances of the Town of May.

Section 807.30: More Restrictive Standard Controls

In the event of any conflict between the provisions of this Article and the provisions of an erosion control article adopted by the Town of May, the more restrictive standard prevails.

Section 807.31: Incorporation of Rules and Documents as Amended

Minnesota Rules, part 8400.4000 to 8400.4075, as amended, are incorporated by reference into this Article. The priority cost-share assistance contract is incorporated by reference into this Article. Minnesota Rules, part 8400.400 to 8400.4075 are available at the Town Clerk's office.

Section 807.32 Provisions are Cumulative

The provisions of this Article are cumulative to all other laws, articles, and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this Article.

TABLE A
SOIL LOSS LIMITS "T" FOR SOILS IN WASHINGTON COUNTY

| <u>Symbol</u> | <u>Soil Name</u> | <u>"T"</u> <u>tons/ac/year</u> |
|---------------|---|-----------------------------------|
| 2 | Ostrander silt loam, 0-2% slopes | 5 |
| 2B | Ostrander silt loam, 2-6% slopes | 5 |
| 2C | Ostrander silt loam, 6-12% slopes | 5 |
| 7B | Hubbard loamy sand, 1-6% slopes | 5 |
| 7C | Hubbard loamy sand, 6-12% slopes | 5 |
| 7D | Hubbard loamy sand, 12-18% slopes | 5 |
| 8 | Sparta loamy sand, 0-2% slopes | 5 |
| 8B | Sparta loamy sand, 2-6% slopes | 5 |
| 8C | Sparta loamy sand, 6-15% slopes | 5 |
| 12C | Emmert loamy coarse sand, 3-15% slopes | 2 |
| 12D | Emmert loamy coarse sand, 12-25% slope | 2 |
| 49 | Antigo silt loam, 0-2% slopes | 4 |
| 49B | Antigo silt loam, 2-6% slopes | 4 |
| 49C | Antigo silt loam, 6-12% slopes | 4 |
| 49D | Antigo silt loam, 12-18% slopes | 4 |
| 75 | Bluffton loam | 5 |
| 100B | Copaston loam, 0-6% slopes | 2 |
| 100C | Copaston loam, 6-12% slopes | 2 |
| 113 | Webster loam | 5 |
| 120 | Brill silt loam | 4 |
| 123 | Dundas fine sandy loam | 5 |
| 132B | Hayden fine sandy loam, 2-6% slopes | 5 |
| 132C | Hayden fine sandy loam, 6-12% slopes | 5 |
| 132D | Hayden fine sandy loam, 12-25% slopes | 5 |
| 151 | Burkhardt sandy loam, 0-3% slopes | 3 |
| 151B | Burkhardt sandy loam, 3-9% slopes | 3 |
| 153B | Santiago silt loam, 2-6% slopes | 5 |
| 153C | Santiago silt loam, 6-15% slopes | 5 |
| 155B | Chetek sandy loam, 0-6% slopes | 3 |
| 155C | Chetek sandy loam, 6-12% slopes | 3 |
| 155D | Chetek sandy loam, 12-25% slopes | 3 |
| 158B | Zimmerman loamy fine sand, 0-6% slopes | 5 |
| 158C | Zimmerman loamy fine sand, 6-12% slope | 5 |
| 158D | Zimmerman loamy find sand, 12-25% slope | 5 |
| 159 | Anoka loamy fine sand, 0-3% slopes | 5 |
| 159B | Anoka loamy fine sand, 3-9% slopes | 5 |
| 161 | Isanti loamy fine sand 5 | |
| 162 | Lino loamy fine sand | 5 |
| 166 | Ronneby fine sandy loam | 5 |

| <u>Symbol</u> | <u>Soil Name</u> | <u>"T"</u> <u>tons/ac/year</u> |
|---------------|---------------------------------------|-----------------------------------|
| 169B | Brahan loamy fine sand, 1-6% slopes | 5 |
| 169C | Brahan loamy fine sand, 6-15% slopes | 5 |
| 170 | Blomford loamy fine sand | 5 |
| 174C | Gale silt loam, 6-15% slopes | 5 |
| 174D | Gale silt loam, 25-50% slopes | 4 |
| 177B | Gotham loamy sand, 1-6% slopes | 5 |
| 177C | Gotham loamy sand, 6-12% slopes | 5 |
| 177D | Gotham loamy sand, 12-20% slopes | 5 |
| 189 | Auburndale silt loam | 5 |
| 225 | Nessel fine sandy loam, 1-4% slopes | 5 |
| 259B | Grays silt loam, 2-6% slopes | 5 |
| 264 | Freeon silt loam, 1-4% slopes | 5 |
| 265 | Soderville loamy fine sand | 5 |
| 266 | Freer silt loam | 5 |
| 298 | Richwood silt loam, 0-2% slopes | 5 |
| 298B | Richwood silt loam, 2-6% slopes | 5 |
| 301B | Lindstrom silt loam, 2-4% slopes | 5 |
| 302B | Rosholt sandy loam, 1-6% slopes | 3 |
| 302C | Rosholt sandy loam, 6-15% slopes | 3 |
| 325 | Prebish loam | 5 |
| 327 | Dickman sandy loam, 0-2% slopes | 3 |
| 327B | Dickman sandy loam, 2-6% slopes | 3 |
| 327C | Dickman sandy loam, 6-12% slopes | 3 |
| 329 | Chaska silt loam | 5 |
| 340B | Whalan silt loam, 1-6% slopes | 4 |
| 340C | Whalan silt loam, 6-12% slopes | 4 |
| 342B | Kingsley sandy loam, 2-6% slopes | 5 |
| 342C | Kingsley sandy loam, 6-12% slopes | 5 |
| 342D | Kingsley sandy loam, 12-18% slopes | 5 |
| 342E | Kingsley sandy loam, 18-30% slopes | 5 |
| 367B | Campia silt loam, 0-8% slopes | 5 |
| 408 | Faxon silt loam | 4 |
| 411 | Waukegan silt loam, 0-2% slopes | 4 |
| 411B | Waukegan silt loam, 2-6% slopes | 4 |
| 411C | Waukegan silt loam, 6-12% slopes | 4 |
| 499 | Crystal lake silt loam, 1-3% slopes | 5 |
| 452 | Comstock silt loam | 5 |
| 453B | Demontreville loamy fine sand, 2-6% | 5 |
| 453C | Demontreville loamy fine sand, 6-12% | 5 |
| 453D | Demontreville loamy fine sand, 12-25% | 5 |
| 454B | Mahtomedi loamy sand, 0-6% slopes | 5 |
| 454C | Mahtomedi loamy sand, 6-12% slopes | 5 |
| 454D | Mahtomedi loamy sand, 12-25% slopes | 5 |

| <u>Symbol</u> | <u>Soil Name</u> | <u>"T"</u> <u>tons/ac/year</u> |
|---------------|---|-----------------------------------|
| 454F | Mahtomedi loamy sand, 25-40% slopes | 5 |
| 456 | Barronett silt loam | 5 |
| 460B | Baytown silt loam, 1-6% slopes | 4 |
| 460C | Bayton silt loam, 6-12% slopes | 4 |
| 468 | Otter silt loam | 5 |
| 472B | Channahon silt loam, 1-6% slope | 2-1 |
| 472C | Channahon silt loam, 6-12% slopes | 2-1 |
| 472D | Channahon silt loam, 12-18% slopes | 2-1 |
| 481 | Kratka fine sandy loam | 5 |
| 488F | Brodale flaggy loam, 20-5-% slopes | 2 |
| 504 | Duluth silt loam, 1-6% slopes | 5 |
| 504C | Duluth silt loam, 6-12% slopes | 5 |
| 504D | Duluth silt loam, 12-25% slopes | 5 |
| 507 | Poskin silt loam | 4 |
| 529 | Ripon silt loam, 1-2% slopes | 4 |
| 529B | Ripon silt loam, 2-6% slopes | 4 |
| 529C | Ripon silt loam, 6-12% slopes | 4 |
| 540 | Seelyeville muck | 5 |
| 541 | Rifle muck | 5 |
| 543 | Markey muck | 4 |
| 544 | Cathro muck | 5 |
| 552 | Kerston muck | 5 |
| 852B | Urban land-Copaston complex, 0-8% | 2 |
| 857 | Urban land-Waukegan complex, 0-3% | 4 |
| 857C | Urban land-Waukegan complex, 3-15% | 4 |
| 858 | Urban land-Chetek complex, 0-3% | 3 |
| 858C | Urban land-Chetek complex, 3-15% | 3 |
| 859B | Urban land-Zimmerman complex | 5 |
| 860C | Urban land-Hayden Kingsley complex, 3-15% slopes | 5 |
| 860D | Urban land-Hayden Kingsley complex 15-25% slopes | 5 |
| 861C | Urban land-Kingsley complex, 3-15% | 5 |
| 861D | Urban land-Kingsley complex, 15-25% | 5 |
| 862 | Urban land-Dundas complex, 1-4% | 5 |
| 863 | Urban land-Lino complex, 0-3% | ? |
| 896C | Mahtomedi-Kingsley complex, 3-12% | 5 |
| 896D | Mahtomedi-Kingsley complex, 12-25% | 5 |
| 896F | Mahtomedi-Kingsley complex, 25-40% | 5 |
| 1013 | Pits, quarry | |
| 1027 | Uddorthents, wet substratum | |
| 1029 | Pits, gravel | |
| 1033 | Udifuvents | |

| <u>Symbol</u> | <u>Soil Name</u> | <u>"T"</u> <u>tons/ac/year</u> |
|---------------|---|-----------------------------------|
| 1039 | Urban land | |
| 1040 | Udorthents | |
| 1055 | Aquolls and Histosols, ponded | |
| 1813B | Lino Variant loamy fine sand, 2-6% | 5 |
| 1819F | Dorerton-Rock outcrop complex, 25-65% | 2 |
| 1820F | Mahtomedi Variant-Rock outcrop complex 25-60% slopes | 5 |
| 1821 | Alganssee loamy sand | 5 |
| 1827 | Waukegan Variant silt loam, 0-2% | 3 |
| 1827B | Waukegan Variant silt loam, 2-9% | 3 |
| 1847 | Barronett silt loam, sandy substratum | 5 |
| 1848 | Sparta loamy sand, bedrock substratum 0-6% slopes | 5 |

ARTICLE 808: SOLID AND HAZARDOUS WASTE

Section 808.01: Adoption of State Solid and Hazardous Waste Rules and Regulations

- A. The Rules of Minnesota Pollution Control Agency (Solid and Hazardous Waste Division), Chapter 7045 as in effect November 1, 1987, relating to hazardous waste, are hereby adopted by reference and are incorporated in this title as fully as if set forth herein and shall be in force and effect as the Town of May Solid and Hazardous Waste Rules.

- B. Regulations on File: One copy of the Hazardous Waste Chapter 7945 as in effect November 1, 1987, shall be filed in the office for use and examination by the public. Additional copies may be obtained by the public from the Office of Revisor of Statutes, Room 3, State Capital, St. Paul, Minnesota 55155.

ARTICLE 809: WETLANDS

Section 809.01: Findings and Purpose

- A. Findings. The Town of May finds that wetlands within the Town as part of the natural ecosystem are critical to the present and future health, safety and general welfare of the land, wildlife, and people within the Town; that these wetlands conserve surface waters, provide floodwater retention and improve subsoil moisture and serve to recharge the large aquifers critical to Washington County and the surrounding metropolitan area.

The Town recognizes that existing and future development within the Town has the potential of despoiling, polluting, and irretrievably altering the wetlands and their natural functions, which if properly maintained would constitute important ecological, educational and recreational assets as well as enhancing property values and conserving the natural beauty of the landscape.

- B. Purpose. The purpose of this Article is not only to conserve the existing wetland resources of the Town, but to enhance these resources in quality and quantity for future generations. These wetlands should be preserved or enhanced to as natural a state as possible so as to:
1. Provide natural retention and sedimentation control areas for surface waters;
 2. Regulate the use of areas adjacent to the wetlands to protect their natural function;
 3. Prevent or minimize soil erosion, sedimentation or eutrophication;
 4. Prevent loss of aquatic organisms, wildlife and vegetation;
 5. Protect surface and ground water supplies from the danger of drought, pollution or mismanagement;
 6. Secure safety from local flooding;
 7. Reduce the financial burdens imposed upon individual and the community through the extra costs associated with occupancy or use of areas subject to periodic flooding;
 8. Enhance and preserve water quality;
 9. Enhance and preserve natural drainageways as opposed to costly underground culverts;

10. Reduce danger to health by protecting surface and ground water supplies from impairment by incompatible land uses.
 11. Permit and encourage planned development land uses that will not impede the flow of flood water, cause danger to life or property.
 12. Permit and encourage land uses compatible with the preservation of the natural vegetation and marshes that are a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth.
 13. Minimize runoff of surface waters from developed areas to prevent animal feces, motor oils, paper, sand, salt and other debris, garbage, and foreign materials, from being carried directly into the nearest natural stream, lake or public waters.
 14. Encourage a suitable system of ponding areas to permit the temporary storage of surface water runoff; give preference to areas that contribute to groundwater infiltration and recharge, thereby reducing the need for public projects to contain, store and control such runoff.
 15. Provide sufficient land area to carry abnormal flows of stormwater in periods of heavy precipitation to prevent needless expenditure of public funds for storm sewers and flood protection devices.
 16. Prevent the development of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazards.
 17. Prevent the placement of artificial obstructions that restrict the right of public passage and use of the bed, bank and water of any creeks, marshes or watercourses within the Town.
- C. Intent. It is the intent of this Article to go beyond merely conserving the existing wetland base, but recognizing the loss of wetland area and diminished functions and values, to encourage opportunities for the restoration of lost wetlands and improvement in functions and values of existing wetlands.

Section 809.02: Boundaries

This Article shall apply to wetland areas within the Town which are delineated on the official wetlands map of the Town, or any Water Resources Inventory maps of any Watershed Management Organization or Watershed District within the Town, or the National Wetlands Inventory Maps of the United States Fish and Wildlife Service.

The above referenced maps shall be on file in the Town office and shall be available for inspection. Where interpretation is needed as to the exact location of the boundaries of a

wetland, the Town Board shall make the necessary interpretation upon examination of the site in the field. The Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 10, 1989, shall be used for guidance regarding the delineation of wetlands. The Town Board may consult with technical staff of local, state and or federal agencies and may use their recommendations in making its interpretation.

Section 809.03: Definitions

- (1) Aquifer. Rock or sediment in a formation, group of formations, or part of a formation that will yield sufficient water to be considered a source of supply.
- (2) Alteration. Any change or modification of land, water, vegetation or existing structure in a wetland.
- (3) Assimilating. To take in and incorporate; absorb (i.e., nutrient assimilation by wetland vegetation).

Wetland Classification:

- A. Pristine. These wetlands have a high degree of natural quality with almost no alteration by previous land use. Water quality and habitat exist such that native wetland and wet prairie species are present in relative abundance.
- B. Natural. These wetlands have received little disturbance from surrounding land uses, but are altered from their pristine state due to water quality and/or habitat influences over time. These wetlands have a good species mix which is natural to wetland type, however not the species mix native to the area.
- C. Ag/Residential. These wetlands are significantly altered either directly or indirectly due to disturbance from past and current land use practices. Surrounding land uses such as agricultural tillage, fertilizing, and filling have impacted these wetlands such that the species composition is altered from the natural state and is often dominated by exotic or invasive species.
- D. Utilized. These wetlands are the most altered of the four categories. In many cases, these are holding areas and sediment settling basins for a storm water management plan. Due to excessive sedimentation and fluctuating water level, quality plant communities seldom exist. Habitat provided is often only open water areas used by waterfowl.

Section 809.04: Performance Standards

No development or alterations of any kind shall be allowed within a wetland that is included on any of the wetland maps as listed in this Article, and is greater than 1/2 acre in size without first having obtained a written permit from the Town Board.

A. Standards for Wetlands and Neighboring Lands:

The following standards shall apply to all land within the wetlands area and to neighboring lands:

1. Except as modified or regulated by the standards of this Article, all requirements of the Town zoning permits shall apply.
2. All hard surface runoff shall be treated in accordance with the requirements of the Town and appropriate watershed districts. Treatment may include site retention, skimmers, weirs, or sedimentation ponds of appropriate scale. Structures and ponds servicing this purpose shall be properly maintained and serviced by the property owner.
3. Discharge into wetlands shall occur at a rate no greater than allowed by the Town's wetland authority in accordance with the Town Wetland Management Plan, and appropriate watershed district requirements.
4. All structures shall have a minimum basement floor elevation not less than two feet above the 100 year flood elevation.
5. All structures except those permitted within the wetlands area shall be set back from the boundary of the wetland area according to Table 1. Uncovered porches, decks, patio slabs, open terraces, stairways, walkways, and cantilevered building areas may not extend into the Vegetative Strip area according to Table 1.
6. No parking or driveway areas except for those accessory to single family dwellings shall be located within the setback according to Table 1.

B. Restrictions.

1. Any alteration shall not cause a reduction in the flood stage capacity or in water quality enhancement value of the wetland under condition of ultimate development during a 24 hours, 100 year event.
2. Any alteration shall minimize the impact on vegetation and shall not reduce the existing wildlife habitat value of a wetland as determined by the Town Board.
3. Any alteration shall not have a significantly adverse effect upon the ecological and hydrological characteristics to the wetland as determined by the Town Board.
4. Only fill free of chemical pollutants and organic waste may be used.

5. Alterations shall not adversely change the water flow characteristics within the wetland as determined by the Town Board.
6. Work in the wetland will not be performed during the breeding season of waterfowl or fish spawning season unless it is determined by the Town Board that these elements are not present.
7. Erosion control measures shall be put in place prior to beginning work and shall be approved by the Town Board. All permits involving the disturbance of soil, including building permits, shall contain provisions which specify temporary as well as permanent erosion controls. All projects involving more than 10,000 square feet of disturbed ground or disturbed slopes greater than 15% shall have a detailed erosion control plan consistent with the Minnesota Construction Site Erosion and Sediment Control Planning Handbook and approved by either the Soil and Water Conservation District or a registered engineer.
8. The applicant shall be required to demonstrate that after the development is completed that soil loss will be prevented and conditions on the site stabilized.
9. Stormwater runoff from a development may be directed to the wetland only when substantially free of sediment, debris and chemical pollutants and only at rates which will not substantially disturb vegetation or increase turbidity as determined by the Town Board.
10. The proposed action shall not cause stormwater runoff from the development which would exceed the rate or volume of runoff as required by the Town Water Management Plan.
11. Quality of water infiltrated to water table or aquifer shall be substantially unchanged by the alteration.
12. No alteration, shall be allowed which will endanger the health, safety or welfare of persons or which may result in unusual road maintenance costs or utility line breakage due to soil limitation such as high frost action.
13. Removal of vegetation within a wetland area shall be allowed only when reasonably required for the placement of permitted structures or for normal use of property.

C. Permitted Uses.

No wetland area shall be utilized except for one or more of the following uses, providing they abide by the guidelines set forth in Town Wetlands Management Plan.

1. Residential lawns, gardens, pastures (commercial feed lots prohibited), fences and docks; providing that no change is made to the ground elevation, wetland characteristics (soils, hydrology, and vegetation), or water quality.
2. Wildlife and nature preserves.
3. Permeable (pervious) hiking, skiing and horseback riding trails; providing the trail or the usage does not alter the wetland characteristics.
4. Public and private flood control systems, ponding and drainage facilities, and associated accessory structures; only done in accordance with the Wetlands Management Plan.
5. Environmental monitoring or control facilities, including those related to water quality and wildlife regulation as described in Management Plan, Town Wetlands.
6. Conservation of soil, vegetation, water, fish and wildlife.
7. Scientific research and educational activities that teach principals of ecology and conservation.
8. General outdoor recreation and leisure activities that are not inconsistent with the intent of this Article and do not adversely affect the Town's wildlife habitat or stormwater runoff quality enhancement values as measured by methodologies used in the Town Wetlands Management Plan.
9. Buffer Area.

The Buffer Area shall include land with upland terrestrial (as opposed to aquatic) vegetation, adjacent to a wetland area and subject to the following criteria:

- (a) The horizontal separation from the wetland area edge as shown on Table 1, or
 - (b) The Town, in its review of a particular development proposal, may extend the boundary of the Buffer Area to include land which, in its judgment, would adversely affect the functions and values of the wetland area. Factors include: slopes steeper than 15%, soils of poor building potential, hydrology, and water courses.
10. Permitted Uses in Flood Envelope.

The following operations and uses are permitted in the Flood Envelope as a matter of right, subject to any other applicable codes, ordinances or law.

- (a) Grazing, farming, nurseries, gardening, and harvesting of crops.
- (b) Residential uses such as lawns, gardens, and play areas, but excluding structures and buildings except those receiving conditional use permits.

TABLE 1

Wetland Classifications Buffer Area

| | <u>Pristine</u> | <u>Natural</u> | <u>Ag/Urban</u> | <u>Utilized</u> |
|--------------------------------------|-----------------|----------------|-----------------|-----------------|
| Setback | [100'] | [75'] | [50'] | [25'] |
| Vegetation Strip | [75'] | [25'-50'] | [15'-25'] | [10'] |
| Native Vegetation | entire | 1/2 veg. strip | optional | optional |
| Minimum Lot Size | pending | pending | pending | pending |
| Minimum Lot Width At Wetland Edge | pending | pending | pending | pending |
| Unsewered Lot Size | 2.5 | 2.5 | 2.5 | N/A |

* Permitted Uses between setback and vegetative strip
 decks gardens
 swingset swimming pools
 sandboxes storage sheds

* Vegetative strip:
 Area of non-disturbed ground cover left unmowed to filter sediment, nutrients, and chemicals. Noxious weed control is allowed.

D. Conditional Uses:

No conditional use permit shall be granted except in circumstances in which its approval will not have an adverse impact upon the wetlands, habitat, wildlife, and surrounding properties; the intent of this ordinance; or the precepts of the Town Comprehensive Plan.

Granting of a conditional use permit shall be conditioned upon approval of the request by all other appropriate governmental agencies; including the Watershed

District, the Minnesota Department of Natural Resources, and U.S. Army Corps of Engineers.

The following operations and uses are allowed in wetland areas by conditional use permit:

1. Outdoor nurseries
2. Private and public recreational uses such as ballfields, playfields, picnic grounds and boat ramps.
3. Public utilities, including necessary structures.
4. Other non-structural facilities similar to those permitted by this section that also meet the intent of this section as determined by the Town.
5. Structures associated with recreational uses permitted by this section that are designed in an environmentally sensitive manner and will withstand periodic flooding, except for structures designed or used for habitation or the storage of equipment.
6. Digging, dredging, extraction of any materials from water bodies, water courses, wetlands, flood plain or natural drainage system.
7. Creation of ponds, dam or relocation of any water course or changes to the natural drainage system.
8. Storage yards for equipment, machinery or materials.
9. Accessory buildings or structures.
10. Railroads, streets, parking lots, bridges, utility transmission lines and pipelines.
11. The construction or placement of structures for human habitation of fill, provided the requirements of Section 809.04 are met.

Section 809.05: Permits

- A. General. Except as hereinafter provided in this section, no development, grading, filling, dredging, drainage, construction or septic systems, wells or other alterations shall be allowed within a wetland without first obtaining a written permit from the Town Board.

Exceptions: Emergency work necessary to preserve life or property; repairs or maintenance of any lawful use of land existing on the date of adoption of this ordinance.

B. Application, Issuance of Permit. A separate application for a permit shall be made to the Town for each development activity for which a permit is required except that only one application need be made for two or more such acts which are to be done on the same parcel. The application shall include a map of the site and a plan and a cost estimate of the proposed development and such other engineering data, surveys, and other information and material as may be required in order to determine the effects of such development on the affected land and water uses, such as:

1. Extent of wetland;
2. A description of the amount and location of work to be performed;
3. A survey of the ecological characteristics of the wetland;
4. Maps and data on soils, water table and the flood capacity of the wetland;
5. Copies of permits or permit applications from the Minnesota Department of Natural Resources, and the US Army Corps of Engineers. It is the responsibility of the applicant to determine if permits from the Corps, the DNR, and/or other governmental agencies are required. When proposed work includes construction or alteration of structures, three sets of plans and specifications for such work shall be submitted with the application.

The wetlands permits application shall be processed in accordance with the procedures specified for the processing of conditional use permits and the wetlands permit may be processed at the same time and in connection with the processing of an application for a building permit or any other permit required to be granted by the Town.

Work authorized by a permit shall begin within ninety days from the date of issuance unless otherwise stipulated. The work shall be completed within twelve months from the date of issuance unless such time is extended by the Town. The Town shall be notified at least forty-eight (48) hours prior to the commencement of work. If the work is not initiated as specified, the permit shall be voided.

C. Permit Standards. No permit shall be issued unless the Town Board determines that the proposed alteration complies with the restrictions of this section as well as the intent and purpose of this Article. A permit for minimum alteration of a wetland may be allowed when necessary for the use of property but in no case shall the following restrictions be exceeded unless a variance is granted by the Town Board as set forth in Section 809.06 of this Article.

Section 809.06: Mitigation Criteria

The functional values and acreage lost as a result of a wetland alteration shall be replaced according to the following criteria:

- A. Shall meet the requirements of the Wetlands Conservation Act and all local ordinances.
- B. Alteration of any wetland by drainage or filling shall require replacement by restoration of drained wetlands at a ratio 2:1, enhancement to a higher wildlife quality at a 3:1 ratio or restoration to or creation of a natural quality and character wetland using native plant materials at a 1:1 ratio.
- C. Replacement wetlands shall be of equal or greater public value in terms of water retention, water quality enhancement, wildlife habitat, recreation, aesthetic quality and education value. Water quality enhancement value of the wetland will be measured according to a model acceptable to the Town Board. Water retention, wildlife habitat and aesthetic value will be measured according to The Minnesota Wetland Evaluation Methodology for the North Central United States, prepared by the Corps, in conjunction with the Minnesota Environmental Quality board, September 1988.
- D. Replacement wetlands shall be located within the Town of May.
- E. Replacement wetlands shall be completed and approved by the Town Board before alteration of the existing wetland. If this criteria cannot be met, the applicant shall post a performance bond irrevocable letter of credits or cash escrow equivalent to at least 150 percent of the estimated construction cost of replacement wetland. Additional bonding will be required based upon conditions imposed on the applicant.

Section 809.07: Variances

An application for variance shall be handled as prescribed in Section 704.03 of the Zoning Ordinance. In addition to normal notice requirements of the variance process, written notice of the variance along with a description of the scope of the proposed project shall be submitted to the Water Management Organization (WMO) of jurisdiction for comment. No approval may be granted until 15 days after the WMO's monthly meeting in order to provide opportunity to comment.

Variances shall permit activities only to the minimal extent necessary and shall be issued only upon the showing of hardship.

However, no variance may be granted which would allow any use that is prohibited in the zoning district within which the property is located or which will:

- A. Result in incompatible land uses or which would be detrimental to surface and/or ground water resources.
- B. Increase the financial burdens imposed on the community through increasing floods and overflow of water onto land areas within the Town.
- C. Not be in keeping with land use plans and planning objectives for the Town or which will increase or cause danger to life or property.
- D. Not be consistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and wetlands within the Town.
- E. Include development of land and water areas essential to the temporary withholding of rapid runoff of surface water contributing to downstream flooding; or water pollution; or development of land and water areas which provide groundwater recharge.

Section 809.08: Responsibility; Effect

- A. Responsibility. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this call shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability on the Town or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this Article does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance or regulation.
- B. Penalty. Any person who violates the provisions of this Article shall be guilty of a misdemeanor and may be fined in such amount as is authorized by the Town Board. Any person who in violation of this Article alters, changes or modifies any wetlands shall restore them to their original condition or reimburse the Town for its costs of making the restoration.

ARTICLE 810: STORM WATER MANAGEMENT

Section 810.01: Purpose

The purpose of this Article is to preserve the natural resources in and around the Town of May by:

- Protecting the land from the adverse effects of poorly sited development or incompatible activities;
- Protecting the land from projects or development that might adversely impact water quality or unique/fragile/environmentally sensitive land;
- Requiring detailed review standards and procedures for projects or development that will disturb the land;
- Attempting to achieve a balance between orderly development and protection of water quality and natural areas.

Section 810.02: Scope

A. Applicability.

1. A storm water management plan must be submitted to the Town Clerk when an application involves one or more of the following requests or conditions:
 - (a) A major subdivision is requested;
 - (b) Public road construction is proposed;
 - (c) Retention and/or infiltration ponding is required by the Town;
 - (d) More than 1 acre of land will be exposed and unstabilized by development activities at any one time;
 - (e) More than twenty-five (25) percent of a parcel will be impervious at the completion of the project; or
 - (f) Any project where there is a reasonable expectation that soil erosion could affect a protected water or leave the site.
2. In cases where a storm water management plan is required:
 - (a) No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the requirement has been obtained in strict conformance with the provisions of this Article.

- (b) In addition to Town review, the applicant shall be responsible for obtaining a permit from the applicable watershed authority, if a permit is required by that authority.

B. Exemptions. The provisions of this Article do not apply to:

1. Those portions of the common infrastructure of a subdivision that are approved by the Town Board on or before the effective date of this Article;
2. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or
3. Emergency work to protect life, limb, or property.
4. Underground slit trenching for the installation of utilities or drain tile.
5. General agricultural tillage operations.
6. Paving of a public gravel road provided that the paved street is no wider than the gravel road.

C. Waiver. The Town Board may waive any requirements of this Article. The Town Board may require as a condition of this waiver, dedication or construction of facilities, or agreement to dedicate or construct, as may be necessary to adequately meet said standards and requirements.

Section 810.03: Definitions

For the purposes of this Article, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

- (1) Applicant. Any person who wishes to obtain a building permit, zoning or subdivision approval.
- (2) Control Measure. A practice or combination of practices to control storm water, erosion and attendant pollution.
- (3) Detention Facility. A permanent natural or man-made structure, including wetlands, that contains a temporary pool of water or infiltration area for the temporary storage of runoff.
- (4) Flood Fringe. The portion of the 100-year floodplain outside of the floodway.

- (5) Floodway. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a 100-year storm event.
- (6) Hydric Soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- (7) Hydrophytic Vegetation. Macrophytic plant life that occurs in areas where the frequency and duration of inundation or soil saturation produce permanently or periodically saturated soils of sufficient duration to exert a controlling influence on the plant species present.
- (8) Land Disturbing or Development Activities. Any change of the land surface including removing vegetative cover, excavating, filling, grading, the construction of any structure, and severe rutting by machinery.
- (9) One-hundred (100)-year Floodplain. The area adjoining a watercourse or water basin that has been or may be covered by a flood expected to occur on an average frequency of the 100-year recurrence interval.
- (10) One-hundred (100)-year Storm Event. The amount of rainfall that has a one percent chance of occurring in a twenty-four hour period at a given location within a one year time period. For this area it has been defined at 6.00 inches.
- (11) Person. Any individual, firm, corporation, partnership, franchise, association, or governmental entity.
- (12) Protected Waters. Waters protected by the Department of Natural Resources or Wetland Conservation Act.
- (13) Public Waters. Waters of the state as defined in Minnesota Statutes, section 103G.005, subdivision 15.
- (14) Retention Facility. A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water.
- (15) Sediment. Solid matter carried by water, sewage, or other liquids.
- (16) Site. The parcel or subdivision for which an application is made.
- (17) Structure. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.
- (18) Ten (10)-year Storm Event. The amount of rainfall that has a ten percent chance of occurring in a twenty-four hour period at a given location within a one year time period. For this area it has been defined at 4.20 inches.

- (19) Two (2)-year Storm Event. The amount of rainfall that has a fifty percent chance of occurring in a twenty-four hour period at a given location within a one year time period. For this area it has been defined at 2.80 inches.
- (20) Wetlands. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 810.04: Application Procedures and Information Requirements

- A. Application. For any planning, zoning, development or building application requiring a storm water management plan, the storm water management plan must be submitted in order for the parent application to be complete. The storm water plan application procedures and review process are the same as for the parent application.
- B. Storm Water Management Plan. At a minimum, the storm water management plan shall contain the following information.
 - 1. Existing Site Map. A map of existing site conditions showing the site and adjacent properties to within five hundred (500) feet, including the following information. Available public information shall be used to fulfill information requirements for adjacent properties.
 - (a) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;
 - (b) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;
 - (c) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two(2) feet;
 - (d) A delineation of all streams, rivers, public waters and wetlands located on the site and any classification given to the water body or wetland by the Town, Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;
 - (e) In cases of a potential alteration or impact to a stream, river, public water or wetland, the delineation of the impacted water must include

depth of water, a description of all vegetation that may be found in the water, and a statement of general water quality;

- (f) Available public information regarding boundaries, quality, and classification of streams, rivers, public waters and wetlands on adjacent properties within five hundred (500) feet of the site;
 - (g) Location and dimensions of existing drainage easements, existing storm water drainage systems and natural drainage patterns on the site, delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;
 - (h) Available public information regarding existing drainage easements, existing storm water drainage systems and natural drainage patterns on adjacent properties within five hundred (500) feet of the site;
 - (i) Soil types and location of limits of each soil type as shown in the Soil Survey of Washington County;
 - (j) Vegetative cover and clearly delineating any vegetation proposed for removal; and
 - (k) 100-year floodplains, flood fringes and floodways.
2. Site Construction Plan. A site construction plan including:
- (a) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
 - (b) Locations and dimensions of all temporary soil or dirt stockpiles;
 - (c) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Code;
 - (d) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Code; and
 - (e) Provisions for maintenance of the construction site erosion control measures during construction and their removal.
3. Plan of Final Site Conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:

- (a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
- (b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials, including plantings and seedings, that are integral to the storm water management plan;
- (c) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site, setting forth the areas of the site where storm water will be allowed to collect and identifying the elevation, storage volume and peak discharge rate at 2-year, 10-year and 100-year storm events for each natural or man-made storage basin;
- (d) The proposed location, size, alignment and intended use of any structures to be erected on the site;
- (e) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
- (f) Any other information pertinent to the particular project that, in the opinion of the applicant or the Town, is necessary for the review of the project.

Section 810.05: Approval Standards

- A. No storm water management plan that fails to meet the standards contained in this section shall be approved by the Town Board unless a waiver is granted by the Town Board from those standards. The Town Board shall state findings in the minutes that include the reason for its grant of waiver.
- B. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of an adjacent property, receiving channel or wetland. Water also may not be discharged in a manner that causes erosion of the site.
- C. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel, wetland or storm sewer system.

- D. Tracking. Sediment from the site shall be prevented from being tracked onto public or private roadways through the use of gravel or rock-surfaced entrances, roads, access drives and/or parking areas. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- E. Drain Inlet Protection. All storm drain inlets shall be protected during construction until control measures are in place with silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas."
- F. Site Erosion Control. The following criteria (1 through 4) apply only to construction activities that result in runoff leaving the site.
1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 ft./sec. across the disturbed area for the two-year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 2. All activities on the site shall be conducted in a sequence that minimizes the area of bare soil exposed at any one time.
 3. For any project where there is a reasonable expectation that soil erosion could affect a protected water or leave the site, runoff from the entire disturbed area on the site shall be controlled by meeting either subsections (a) and (b) or (a) and (c) below.
 - (a) All disturbed ground left inactive for fourteen or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.
 - (b) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, or as otherwise determined by the Town, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin, length-to-width ratio of three to one (3:1) or greater and at least three feet of depth and constructed in accordance with accepted design standards. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

- (c) For sites with less than ten acres disturbed at one time, silt fences or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. Silt fences must be properly installed, and the use of silt fences or equivalent control measures must include a maintenance, inspection and removal schedule.
4. Any soil or dirt storage piles containing more than ten cubic yards of material shall not be located with a downslope drainage length of less than twenty-five (25) feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven (7) days, they may be required to be stabilized by mulching, vegetative cover, tarps, or other means if there is a reasonable expectation of erosion leaving the site or affecting a protected water. Erosion from piles that will be in existence for less than seven (7) days shall be controlled by placing silt fence barriers or equivalent control measures around the pile if there is a reasonable expectation of erosion leaving the site or affecting a protected water. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven (7) days, and the storm drain inlets must be protected with silt fence or other appropriate filtering barriers.

G. Storm Water Management Criteria For Permanent Facilities.

1. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the 2-year, 10-year, and 100-year storm peak discharge rates existing before the proposed development shall not be exceeded and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.
2. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
3. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
 - (a) Natural infiltration of precipitation on-site;

- (b) Flow attenuation by use of open vegetated swales and natural depressions;
 - (c) Storm water retention facilities; and
 - (d) Storm water detention facilities.
4. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection 1 above. Justification for the method selected shall be provided by the applicant.

H. Design standards.

1. Natural Infiltration. Natural infiltration shall be considered as a first choice where soils are naturally well drained. Mechanical subsoiling and deep-rooted native vegetation must be used in all infiltration areas, including road ditches.
2. Flow Attenuation. Flow attenuation methods such as low earth check dams, wide vegetated swales, and natural depressions shall be used for all open channel flows. The channels shall be designed to be erosion free and shall incorporate deep-rooted native vegetation. The use of rock check dams is not allowed.
3. Storm Water Retention Facilities. Retention facilities shall be used upstream of sensitive areas such as lakes, rivers, and wetlands. Retention facilities shall be designed to contain back to back 100-year run-off events. Where embankments are constructed to contain the run-off, a dam burst study shall be done and submitted for review.
4. Storm Water Detention Facilities. Detention facilities shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:
 - (a) A permanent pond surface area equal to two (2) percent of the impervious area draining to the pond or one (1) percent of the entire area draining to the pond, whichever amount is greater;
 - (b) An average permanent pool depth of four (4) to ten (10) feet;
 - (c) A permanent pool length-to-width ratio of three to one (3:1) or greater;
 - (d) A minimum protective shelf extending ten (10) feet into the permanent pool with a slope of ten to one (10:1), beyond which slopes should not exceed three to one (3:1);

- (e) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet);
- (f) All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;
- (g) Storm water detention facilities for new development must be sufficient to limit peak flows from the parcel into each subwatershed to those that existed before the development for the 10-year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;
- (h) All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.
- (i) Over and above any requirements for managing to pre-construction flow rates, outflow mechanisms from storm water ponds where resulting water eventually leaves the site must be of a “weep” or slow-release design.
- (j) Storm water pond sizing must be at least one hundred twenty-five (125) percent of the Nationwide Urban Runoff Program (NURP) standard.

I. Wetlands.

- 1. Runoff directed into wetlands shall conform to the standards presented in the MPCA’s publication “Storm Water and Wetlands”.
- 2. A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.
- 3. Pristine or natural wetlands, as defined in Section 809.03, must not be drained or filled, wholly or partially. Ag/residential or utilized wetlands, as defined in Section 809.03, must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority, in accordance with the Wetland Conservation Act of 1991.
 - (a) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

- (b) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
 - (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity, and
 - (e) Compensating for the impact by replacing or providing substitute wetland resources or environments.
- J. Steep Slopes. No land disturbing or development activities shall be allowed on steep slopes as defined for the zoning district or overlay district.
- K. Catch Basins. All newly installed and rehabilitated catch basins shall be provided with a one (1) foot deep sump area for the collection of coarse-grained material. Such basins shall be cleaned by the applicant when they are half filled with material. They shall be cleaned again by the applicant at final acceptance of the project by the Town.
- L. Drain Leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.
- M. Inspection and Maintenance. All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The Town Engineer shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file with the Town Clerk for a period of six (6) years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.
- N. Models/Methodologies/Computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the Town Engineer. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the Town Engineer. All farm fields and impervious surfaces shall be modeled with a Soil Conservation Service (SCS) curve number of fifty-eight (58) when determining existing flow rate.

- O. Watershed Management Plans/Groundwater Management Plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

- P. Easements. If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

ARTICLE 811: RESTRICTIVE SOILS

Section 811.01: Findings and Purposes

The Town of May finds that certain areas within the Town are characterized by certain soil types, slopes, and water levels which, require corrective action. Inappropriate development in these areas increases soil materials into groundwater, encourages pollution, destroys ecological and natural resources, and requires expenditures of public funds to correct deficiencies; thereby acting to the detriment of the health, safety and welfare of the citizens of the Town of May.

Therefore, the purposes of this Article are to provide for the regulation of development on restrictive soils in such a way as to minimize the risk of environmental damage and to protect private homeowners and governmental units from incurring high maintenance and capital costs resulting from the necessity of correcting deficiencies encountered as a result of development on poorly suited soils.

Section 811.02: District Boundaries

This Article shall apply to areas within the Town of May which are delineated on the official soils maps of the Town of the Washington County Soil Survey, and have soil types set forth in Table A (attached). For purposes of determining the application of this Article to any particular parcel of land, the above referenced map shall be on file in the office of the Town Clerk and shall be available for inspection and copying.

Section 811.03: Definitions

- (1) Person. An individual or firm, corporation, partnership, association or other private body or governmental entity.
- (2) Structure. Any building which may provide shelter for any person, animal or item of property.

Section 811.04: Restrictive Soils Development Permit Provision

- A. Except as hereinafter provided in this Article, no person shall erect any structure within restrictive soils areas without having first obtained a written permit from the Building Inspector authorizing the same.
- B. Exceptions. The permit requirements established by this Article shall not apply to:
 1. Any public agency or its contractor or any person performing work within a right-of-way of any public agency pursuant to a permit issued by such public agency.

2. Emergency work necessary to preserve life or property. When emergency work is performed under this section, the person performing it shall report the pertinent facts relating to the work to the Building Inspector within seven (7) working days of commencement of the work. The Building Inspector shall review the facts and determine whether any emergency exists and shall, by written memorandum, authorize the commencement of the emergency exception.
 3. Development consisting of the corrective alteration, repair or maintenance of any lost full use of land existing on the date of adoption of this Code.
- C. Application for Processing of Permit. A separate application for a permit shall be made to the Building Inspector for each development for which a permit is required except that only one application need be made for two or more such acts which are to be done on the same parcel. The application shall include a map of the site and a delineation of the soils found in the site along with a plan and cost estimate of the proposed development and such other engineering data, surveys, and other information and material as may be required in order to determine the effects of such development on the affected land and the suitability of the soils for said development. When proposed work includes construction or alterations of structures, such work shall be submitted with the application, along with detailed drawing of any special foundation structures and/or special provisions for on-site sewer disposal.
- D. Issuance of Permit. The following standards shall govern the issuance of permits for development:
1. General Standards. Development on restrictive soils shall not be permitted until an investigation and subsequent report has been completed and presented to the Town Board for approval. The said report shall be prepared by a professional engineer or soil scientist experienced and knowledgeable in the practice of soils and soils mechanics, and until the recommendations thereof have been incorporated into the design plan and specification. No permit shall be issued for development on soils deemed by this Article to be unsuitable.
 2. Attached hereto and labeled as Table A is a grouping of restrictive soils from the Soil Survey of Washington County are hereby incorporated and made a part of this Article.

The soil symbols set forth are highly restrictive for residential, commercial, industrial or other development due to high water table (three feet or less), steep slope conditions (18% slopes or greater), high shrink swell potential, or shallow to bedrock. No development permit shall be issued unless it has first been demonstrated by the developer that buildings shall be constructed in accordance with the standards found in the Minnesota State Building Code for appropriate soil conditions and that a soil absorption disposal system can

satisfactorily function in accordance with municipal regulations. Said standards are hereby incorporated by reference into this Article.

- E. Conditions. A special permit may be approved subject to compliance with conditions reasonable and necessary to insure compliance with the requirements contained in the Article which are specifically set forth in the permits. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of other structures, including special foundations and soil stabilization structures, establish required monitoring procedures, require such alterations of the site as may be necessary.
- F. Time of Permit - Extensions, Reviews
1. A permittee shall begin the work authorized by the permit within sixty (6) days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The permittee shall complete the work authorized by the permit which in no event shall exceed more than twelve months from the date of issuance. The permittee shall notify the Building Inspector at least twenty-four hours prior to the commencement of work. Should the work not be commenced as specified herein, then the permit shall become void; provided, however, that if prior to the date established for commencement of work, the permittee makes written request to the Building Inspector for an extension of time to commence the work, setting forth the reasons for the required extension the Building Inspector may grant such extension. A permit which has become void may be renewed at the discretion of the Building Inspector upon payment of a renewal fee. The permit for such work may be granted only upon compliance with the procedures herein established for any original application.
 2. Notice of Completion. The permittee shall notify the Building Inspector in writing of the termination of the work authorized and no work shall be deemed to have been completed until approve in writing by the Building Inspector following such written notification.
 3. Inspection. The Building Inspector may cause inspections of work to be made periodically during the course thereof by himself or a member of the Building Inspector staff and shall cause a final inspection to be made following the completion of the work.
- G. Variances and Appeals. Variance and appeals for this Article shall be administered pursuant to Chapter 7, Section 704.03 of the Zoning Code.

Section 811.05: Responsibility; Effect

- A. Responsibility. The issuance of a permit and/or compliance with the conditions thereof, nor with the terms therewith shall not relieve any person from any

responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability on the Town of May or its officers or agents.

TABLE A

| <u>Symbol</u> | <u>Name</u> |
|---------------|---|
| 75 | Bluffton loam |
| 100B | Copaston loam, 0 to 69% slopes |
| 100C | Copaston loam, 6 to 12% slopes |
| 113 | Webster loam |
| 123 | Dundas fine sandy loam |
| 155D | Chetek sandy loam 12 to 25% slopes |
| 158D | Zimmerman loamy fine sand, 12 to 25% slopes |
| 161 | Isanti loamy fine sand |
| 166 | Ronneby fine sandy loam |
| 174C | Gale silt loam, 25 to 50% slopes |
| 189 | Auburndale silt loam |
| 264 | Freeon silt loam, 1 to 4% slopes |
| 265 | Soderville loamy fine sand |
| 266 | Freer silt loam |
| 325 | Prebish loam |
| 329 | Chaska silt loam |
| 340B | Whalan silt loam, 1 to 6% slopes |
| 340C | Whalen silt loam, 6 to 12% slopes |
| 342E | Kingsley sandy loam, 18 to 30% slopes |
| 408 | Faxon silt loam |
| 452 | Comstock silt loam |
| 453D | Demontreville loamy fine sand, 12 to 25% slopes |
| 454D | Mahtomedi loamy fine sand, 12 to 25% slopes |
| 454F | Mahtomedi loamy fine sand, 25 to 40% slopes |
| 456 | Barronett silt loam |
| 468 | Otter silt loam |
| 472B | Channahon silt loam, 1 to 6% slopes |
| 472C | Channahon silt loam, 6 to 12% slopes |
| 472D | Channahon silt loam, 12 to 18% slopes |
| 481 | Kratka fine sandy loam |
| 488F | Brodale flaggy loam, 20 to 50% slopes |
| 504D | Duluth silt loam, 12 to 25% slopes |
| 507 | Poskin silt loam |
| 529 | Ripon silt loam, 1 to 2% slopes |
| 529B | Ripon silt loam, 2 to 6% slopes |
| 529C | Ripon silt loam, 6 to 12% slopes |
| 540 | Seelyeville muck |
| 541 | Rifle muck |

| | |
|-------|--|
| 543 | Markey muck |
| 544 | Cathro muck |
| 552 | Kerston muck |
| 860D | Urban land - Hayden-Kingsley complex, 15 to 25% slopes |
| 861D | Urban land - Kingsley complex, 15 to 25% slopes |
| 896D | Mahtomedi - Kingsley complex, 12 to 25% slopes |
| 1013 | Pits, Quarry |
| 1027 | Udorthents, wet substratum |
| 1029 | Pits, Gravel |
| 1033 | Udifulvents |
| 1040 | Udorthents |
| 1055 | Aquolls and Histosols, ponds |
| 1819F | Dorerton - Rock outcrop complex, 25 to 65% slopes |
| 1820F | Mahtomedi variant - rock outcrop complex, 25 to 60% slopes |
| 1821 | Alganssee loamy sand |
| 1827 | Waukegan variant silt loam, 0 to 2% slopes |
| 1827B | Waukegan variant silt loam, 2 to 9% slopes |
| 1847 | Baronett silt loam, sandy substratum |
| 1848B | Sparts loamy sand, bedrock substratum, 0 to 6% slopes |

ARTICLE 812: LAND SPREADING YARD WASTES FOR SOIL ENHANCEMENT

Section 812.01: Definitions

- (1) Land Spreading. The application and incorporation of yard waste on land used for agriculture for the purpose of improving the fertility of the soil or reducing soil erosion. This material cannot be used for fill material.
- (2) Yard Waste. Leaves, grass clippings and herbaceous plant materials but does not include brush, tree trimmings or other woody plant materials.
- (3) Incorporation. Plowing, disking, chisel plowing, etc. waste into the soil to a depth sufficient to prevent blowing of yard waste.
- (4) Active Land Management. Conducting a program of soil testing and introduction of additives when needed to correct pH or other soil imbalances.

Section 812.02: Land Spreading of Yard Waste

Land spreading of yard waste shall be permitted by permit only in agriculturally zoned property of at least forty (40) acres in size under the following conditions:

- A. Yard waste shall be received at the application site in bulk form and not in plastic or other bags.
- B. Yard waste may be applied annually at a rate not to exceed three (3) inches in depth or such lesser amount as may be necessary to allow complete incorporation.
- C. Yard waste may not be stored within three hundred (300) feet, nor spread within one hundred (100) feet, of any residential building, except the dwelling owned or occupied by the landowner.
- D. No yard waste may be stored within three hundred (300) feet, nor spread within one hundred (100) feet, of any body of water or any area designated as class "A" on floodplain maps prepared by the Federal Emergency Management Agency.
- E. Yard waste must be spread within thirty (30) days and incorporated within forth-five (45) days of the date of receipt. Yard waste received between November 15 and April 1 of the following year may be stored for use in the spring but must be spread by May 15 and incorporated by June 1.
- F. The land spreading site must be located on a paved road if yard waste is delivered in vehicles having a gross weight of nine (9) tons per axle or greater.

- G. Yard waste shall not contain extraneous materials, including animal wastes or municipal solid waste. Yard waste containing more than .10 percent of extraneous materials by weight or volume shall not be acceptable in yard waste.
- H. The land spreading operation, including delivery, storage, spreading and incorporation, shall not generate off-site nuisances of a greater amount or different type than is typically associated with farming. Such off-site nuisances include, but are not limited to, dust, odor and wind blown debris or yard waste. The operation shall be free of litter and vermin.
- I. Land spreading shall be accomplished in accordance with the regulations and requirements of all other agencies, organizations or entities having jurisdiction over such activity.
- J. Land spreading operations shall be suspended or terminated if at any time it is deemed that conditions exist constituting a fire hazard or if there is a threat to surface or ground water from runoff or leachate.
- K. Land spreading shall be accompanied by a program of active land management designed to enhance fertility and reduce soil erosion.
- L. Yard waste shall not be spread over land having a slope of 10 percent (10%) or greater.
- M. Licenses and fees may be established by Town Board Resolution.
- N. Each property owner will be limited to contracting with one (1) hauler.

SUBDIVISION DEVELOPMENT REGULATIONS

ARTICLE 901: SUBDIVISION DEVELOPMENT, GENERAL

Except as otherwise herein provided, there is hereby adopted as set forth herein for the purpose of regulating subdivision within the Town, the Washington County Development Code, Chapter Three, Ordinance #131 effective January 1, 1998, together with any amendments or revisions thereto (hereinafter: “The Model Ordinance”) of which not fewer than three copies are on file in the office of the Town Clerk. Where provisions of this CHAPTER 9, ARTICLE 901 differ from those of The Model Ordinance, the provisions of this CHAPTER 9, ARTICLE 901 shall apply.

Section 901.01: Section 1 “**Intent and Purpose**” of The Model Ordinance is enacted in its entirety.

Section 901.02: Section 2 “**Scope and Applicability**” of The Model Ordinance is enacted in its entirety.

Section 901.03: Definitions

901.03.01

A “person” includes a corporation, a partnership, and an incorporated association of persons such as a club; “shall” is always mandatory; a “building” includes a “structure” and includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged”, or “designed to be used or occupied”.

901.03.02

For the purpose of this Chapter, certain terms and words are hereby defined as follows:

- (1) Applicant. The owner of the land proposed to be subdivided or his legal representative.
- (2) Attorney. The Town Attorney.
- (3) Block. The enclosed area within the perimeter of roads, outlots, property lines or boundaries of the subdivision.
- (4) Boulevard. The portion of the street right-of-way between the curb line and the property line.

- (5) Buildable Land. See “Contiguous Buildable Acres.”
- (6) Comprehensive Plan. The Comprehensive Plans prepared by the Township and Washington County including a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Township and Washington County and includes any unit or part of such plan or parts thereof.
- (7) Concept Plan. A sketch and plan preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Township and Washington County as to the form of the development and the objectives of these regulations. The Concept Plan shall contain data in accordance with Section 901.06 of this Chapter, and shall outline the best development strategy, given the characteristics of the parcel, the Town’s land use and development objectives, and the goals of the applicant.
- (8) Conservation Easement. A non-possessory interest in real property imposing limitations on a parcel of land for the purpose of retaining and protecting natural or open space values of real property, assuring its availability for agricultural forest, recreational or other open space uses and protecting natural resources. A Conservation Easement must be granted to a qualified Land Trust and to the Town of May, and all open space and pathways must be governed by a conservation easement.
- (8a) Contiguous Buildable Acres. Contiguous land within a parcel or lot, above the ordinary high water level of any lake, river, stream or wetland, not in a flood plain or lake bottom, and containing no steep slopes. For the purpose of determining the minimum lot size in a zone or overlay district within the Town, “contiguous buildable acres” does not subtract out setbacks, but does not preclude other related ordinances from doing so.
- (9) Contour Interval. The vertical height between contour lines.
- (10) Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations.
- (11) Copy. A print or reproduction.
- (12) County. Washington County, Minnesota.
- (13) County Board. The Washington County Board of Commissioners.
- (14) Cul-De-Sac. A street with only one outlet; a dead end street.

- (15) Detached Single Family Dwelling. A residential structure designed for or used exclusively as one dwelling unit of permanent occupancy. A single family dwelling, that is surrounded by yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.
- (16) Developer. The owner or controller of land proposed to be subdivided or his representative.
- (17) Development. The act of subdividing land, building structures and installing site improvements; the resulting subdivision.
- (18) Development Agreement (major subdivision). A contract with the Town in which the applicant agrees to take certain specified actions in consideration of the Town's granting preliminary and final plat approval.
- (19) Development Code. The official controls adopted by Washington County regulating the physical development of land in the unincorporated areas of the County.
- (20) Drainage Course. A water course or indenture for the drainage of surface water.
- (21) Drainage Way. A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conveying water from one place to another.
- (22) Easement. A grant by an owner for a specific use of land by persons or entities other than the owner.
- (23) Engineer. The registered engineer employed by the Township unless otherwise stated.
- (24) Final Plan. Final Plat together with all required documents prepared for Final Plan approval.
- (25) Final Plat. The final drawing or drawings of record of a subdivision; also the map and any accompanying material as described in these regulations.
- (26) Grade. The slope of a road, street, or other public way specified in percentage (%) terms.
- (27) Individual Sewage Disposal System. A sewage treatment system, or part thereof, serving a dwelling or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. See Chapter Eight of the Washington County Development Code.

- (28) Lot. An individual parcel of land designated by metes and bounds, registered land survey, plat, or other means, and which description is either recorded in the Office of the Washington County Recorder or Registrar of Titles, or used by the County Auditor-Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- (29) Lot Averaging Subdivision. A method of subdivision development based on the number of lots yielded by the Town's 10-acre average density and lot yield calculation, but with a variety of lot sizes as specified in this Chapter.
- (30) Lot, Corner. A lot bordered on at least two (2) adjacent sides by intersecting streets.
- (30a) Lot Line Adjustment. A request to divide a lot which is part of a recorded plat or metes and bounds description, where the division is to permit the adding of a portion of its land to an abutting lot, or to otherwise exchange property between adjacent lots, such that the division may be reviewed and approved by the Town Board and is not a formal planning/zoning application. (Amended by Ord. 2014-03, Effective 4/3/15)
- (31) Major Subdivision. All subdivisions of four (4) or more lots.
- (32) Metes and Bounds. A property description in which successive sides are described by direction and distance as one would walk around the area being described.
- (33) Minimum Subdivision Design Standards. The guides, principles and specifications for the preparation of subdivision plans indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.
- (34) Minor Subdivision. Any subdivision containing three (3) or less lots fronting on an existing street, not involving any new road, or the extension of an existing road, or the creation of any public improvements.
- (35) Open Space. A non-buildable tract of land used for agricultural, natural habitat, pathways and/or recreational purposes.
- (36) Open Space Design. A method of subdivision development which places residential dwelling units into groupings while providing an arrangement of dedicated open space.

- (37) Open Space Management Plan. For Open Space Design subdivisions, a description of the open spaces, including trails and pathways, the uses permitted in the open spaces, and how the spaces will be maintained and preserved.
- (38) Ordinary High Water Level. The boundary of public waters and wetlands; an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool. On lakes with an established high water level by the Minnesota Department of Natural Resources, that elevation shall be considered the ordinary high water level.
- (39) Outlot. A lot remnant or any parcel of land included in a plat which is not eligible for building at the time of platting. Such outlot may be a large tract that could be subdivided in the future; or a dedicated open space in an Open Space Design subdivision; or a lot which may be too small to comply with the minimum size requirements of zoning and subdivision ordinances; or a lot otherwise unsuitable for development and therefore not usable as a building site.
- (40) Owner. All persons interested in a property as fee simple owner, life estate holder and/or encumbrancer or contract for deed carrier or purchaser.
- (41) Pedestrian Way. A public right-of-way across or within a plat to be used by pedestrians or non-motorized uses.
- (42) Person. Any person, corporation or association including governmental agencies and political entities.
- (43) Planning Commission. The May Township Planning Commission.
- (44) Plat Commission. The County Commission appointed by the County Board consisting of a representative from each of the following departments or agencies: County HELM, County Surveyor, County Recorder, County Attorney, County Engineer, County Commissioner and Soil & Water Conservation District.

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- (45) Preliminary Plan. The Preliminary Plat together with all required documents necessary for Preliminary Plan approval.
- (46) Preliminary Plat. The preliminary drawing or drawings as described in these regulations indicating the proposed manner or layout of the subdivision to be submitted to the Zoning Administrator for review. Preliminary Plat shall contain data required as outlined in Section 901.07.
- (47) Private Road. A road serving as vehicular access to more than two (2) parcels of land which is not dedicated to the public but is owned by one or more private parties.
- (48) Protective/Restrictive Covenants. Contracts, agreements, or declarations entered into between private parties which constitutes a restriction on the use of private property within a subdivision.

- (49) Reserve Strip. A narrow strip of land placed between lot lines and roads to control access.
- (50) Resource Inventory Survey. An itemization of resources contained within the parcel to be subdivided, including agricultural lands, woodlands, waters and wetlands, scenic views, and historic points.
- (51) Right-of-Way: The land covered by a public road or land dedicated for public use or for certain private use such as land over which a power line passes.
- (52) Road. A way or course within a right of way which affords a primary means of access to abutting property.
- (53) Road, Dead-End. A road or portion thereof with only one (1) vehicular traffic outlet; a cul-de-sac.
- (54) Road, Collector. A road intended to move traffic from local roads to minor arterial roads or a road designated as a collector by the Minnesota Department of Transportation, the Metropolitan Council functional classification map, or the May Township Comprehensive Plan.
- (55) Road, Minor Arterial. A road identified as minor arterial by the Minnesota Department of Transportation, the Metropolitan Council functional classification map, or the May Township Comprehensive Plan. These roads are designed to serve heavy traffic volumes and their function is to provide mobility and connectivity to principal arterials.
- (56) Road, Local. A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for utilities and storm drainage pipes.
- (57) Road, Rural Design. A gravel road.
- (58) Road, Asphalt Design. A bituminous road which may have concrete or bituminous curb and gutter, or gravel shoulders.
- (59) Road, Width. The shortest distance between the lines delineating the roadway, including curbs and/or shoulders.
- (60) Stable-Private. The keeping, breeding, raising and use of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members, and for which commercial gain is not the primary objective.

- (61) Subdivider. The owner, agent, or person having control of land being subdivided.
- (62) Subdivision. The process, or result of the process, whereby land is divided into two or more parcels for the purpose of transfer of ownership, building development or tax assessment purposes including platting, replatting, registered land survey, conveyance, sale, contract for sale or other means by which a beneficial interest in land is transferred or created.
- (63) Survey, Land. The process of determining boundaries and areas of tracts of land. Also called property survey or boundary survey. The term cadastral survey is sometimes used to designate a land survey, but in this country its use should be restricted to the surveys of public lands of the United States (USPLS).
- (64) Surveyor. A land surveyor licensed under Minnesota State Laws.
- (65) Zoning Ordinance. Regulations controlling the use of land as adopted by the Township.
- (66) Trails (Pathways). Areas constructed for a designated use such as walking, non-motorized recreation, and equestrian use, if appropriate, while also providing connectivity to open spaces.
- (67) Vicinity Map. A map drawn to comparatively small scale which shows the area proposed to be platted in relation to known geographical features, e.g. lakes, roads, and other parcels.
- (68) Yield Plan. The calculation of the number of lots eligible from a parcel to be subdivided, based on Section 901.12, along with a drawing depicting the lots.

Section 901.04: Administration

- 901.04.01** The Town of May shall be the Administrator of these regulations.
- 901.04.02** Whenever there is a difference between the minimum standards or dimensions required in this Chapter and any other standards or dimensions in other sections of the May Town Code, the most restrictive standards or dimensions shall apply.
- 901.04.03** Subdivision review shall be coordinated with the requirements and procedures for Environmental Assessment and Impact Statements as contained in Chapter One, Section 13 of the Washington County Development Code. Any mandatory Environmental Assessment Worksheet or Impact Statement as required by the Minnesota Environmental Quality Board Regulations shall be submitted as part of the application for preliminary plat approval.

- 901.04.04** Major subdivisions shall be either of Lot Averaging design or Open Space design as defined in this Chapter.
- 901.04.05** The platting and subdivision of Lot Averaging subdivisions are subject to the requirements contained in Section 901.13 of this Chapter. A Lot Averaging subdivision shall require a Resource Inventory Survey, a Yield Plan, and a Concept Plan.
- 901.04.06** The platting and subdivision of Open Space Design subdivisions shall be subject to the requirements contained in Section 901.14 of this Chapter. An Open Space Design subdivision is only allowed as a major subdivision and shall require a Resource Inventory Survey, a Yield Plan, a Concept Plan, and an Open Space Management Plan.
- 901.04.07** The platting and subdivision of a Minor Subdivision shall follow the requirements contained in Section 901.15 of this Chapter. No Open Space Design subdivisions are allowed in Minor Subdivisions. A Minor Subdivision shall require a Yield Plan and a Resource Inventory Survey.
- 901.04.08** In the case of a Lot Line Adjustment as defined in this article, the request must be accompanied by a survey and legal description of each resulting lot by a licensed land surveyor showing the original lots and the proposed new lot lines. The Town Board alone may approve the Lot Line Adjustment provided the following conditions are met: (Amended by Ord. 2014-03, Effective 4/3/15)
- A. There is no net increase in the number of lots.
 - B. No non-conformities shall be created or increased.
 - C. There shall be no net increase in the number of development rights across both parcels.
 - D. No variances are necessary.

Lot Line Adjustments are not a formal planning /zoning action and do not require the normal noticing requirements of a Subdivision. If the Lot Line Adjustment/division does not meet the above criteria, it must be processed in the same manner as an application for Minor Subdivision or Plat, whichever is appropriate. Additional information may be required by the Zoning Administrator to meet compliance with such application. Such Subdivision application is subject to the Town's noticing requirements.

New deeds for both resulting lots must be created by the requester, with the newly acquired land being combined on the same deed as that original lot. Both deeds must be presented to the Town Attorney for review and recording, with an escrow posted by the requester in an amount established by the Town.

901.04.09 No structure shall be built or placed on a lot in a new plat until the Final Plat has been approved and recorded, and road and drainage improvements are substantially completed and erosion control is substantially in place, as certified by the Town Engineer and approved by the Town Board. With regard to road improvements, substantially complete shall mean that the gravel base is in and if an asphalt road is specified, that the first wear course of asphalt has been applied.

Section 901.17 of this Chapter 9 specifies that the developer shall financially guarantee all such improvements to the Town, with such financial guarantee in effect during the warranty period running one (1) year after certification of completion of all improvements has been issued by the Town Engineer and approved by the Town Board.

The developer shall cooperate with the Township, and/or other State or County agencies with administrative or regulatory authority, to correct any conditions observed within the development, or associated with the development, during the warranty period.

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- 901.04.10** Any lot or parcel of land designated as an “outlot” shall have a development agreement recorded against this lot or parcel specifying the usage and ownership of said lot or parcel.
- 901.04.11** Consent for subdivision of property shall be required from the owner of the property.
- 901.04.12** Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property to be subdivided even in the event of foreclosure of the security interest unless the parcel is in conformance with this Chapter and the Washington County Development Code.
- 901.04.13** Variances to the standards contained in this Chapter shall be governed by the regulations contained in Section 704.03 of the May Town Code.
- 901.04.14** Any financial security required under the provisions of this Chapter shall be approved by the Zoning Administrator, Township Attorney, Township Engineer, and Town Board.
- 901.04.15** In addition to any other remedies set forth in the May Town Development Code, any person who violates any provisions of this Chapter or who sells, leases or offers for sale or lease any lot, block or tract of land regulated by this Chapter before all requirements of the regulations of this Chapter have been complied with shall forfeit to the Town five thousand dollars (\$5,000.00) for each lot or part of a lot so disposed of, leased or offered.
- 901.04.16** Fees for plat reviews and other services rendered under this Chapter shall be established by the Town Board and specified in Chapter 13 of the May Town Code.
- 901.04.17** This section intentionally left blank.
- 901.04.18** The “Access Management” provisions as defined in Section 901.09 of this Chapter shall also be followed.
- 901.04.19** In the case of a subdivision resulting in three (3) or less parcels and situated in a locality where conditions are well defined and no new roads or other public infrastructure is needed, the Town may waive a portion of the platting requirements.
- 901.04.20** At a minimum, the following information must be submitted:
- A. A survey showing the original lot and proposed lots.

- B. Topographic data at ten (10) foot contour intervals. Data at two (2) foot contours and flood plain information may be required if deemed necessary by the Zoning Administrator.
- C. Buildable area on the parcels.
- D. Driveway access points.
- E. Drainage, grading and erosion control plans.
- F. Wetland delineation report and map.
- G. Soil testing for the installation of both a primary and secondary on-site sewage disposal system.

901.04.21 A certificate of survey shall be prepared by a licensed land surveyor showing the boundaries of the newly created lots.

901.04.22 Prior to approval of a minor subdivision, the Township and/or County reserves the right to require the dedication of streets, utility and drainage easements, or public park land or cash in lieu of land.

901.04.23 All wetland areas and DNR protected waters shall be protected with a drainage easement up to the 100 year flood elevation or the wetland boundary, whichever is more restrictive.

901.04.24 The Zoning Administrator shall review all minor subdivisions for compliance with the Washington County Development Code prior to recording of the proposed subdivision.

901.04.25 In addition to other requirements, all requirements of Sections 901.08, 901.09 and 901.11 of this Chapter must be met where applicable. Further, the following must be completed:

- A. A development agreement must be entered into specifying the number of density units allocated among the parcels (refer to Chapter 3 of the Washington County Zoning Ordinance) and approved by the County Board.
- B. Driveway permits or letter of intent must be approved by the Washington County Department of Public Works or MNDOT if access to a County or State road is required.
- C. Drainage easements must be dedicated as necessary.
- D. Road right-of-way must be dedicated as necessary.

Section 901.05: Reserved

Section 901.06: Platting Procedure

901.06.01 Concept Review.

- A. In order to ensure that all applicants for major subdivisions are informed of the procedural requirements and minimum standards of this Chapter, and the requirements or limitations imposed by other Township regulations prior to the development of a preliminary plat, the subdivider shall meet with the Township Zoning Administrator in advance of submitting the concept plan.

- B. At least fourteen (14) days prior to the regularly scheduled meeting of the Planning Commission, the owner shall prepare and submit eleven (11) copies of a Concept Plan to the Town Clerk containing the following information:
 - 1. An existing conditions plan which identifies the following (drawn to a scale of 1" = 100'): lakes, wetlands, flood plains, steep slopes, hydric soils, woodlands, prairie, farmland, historic structures.

 - 2. A general site plan to include all platted lots, roads, open space areas, building locations, and trails (drawn to a scale of 1" = 100').
 - (a) Resource Inventory Survey (Map and estimated acreage)
 - (i) Total site acres
 - (ii) Acres below the ordinary high water level of any lake, river or stream.
 - (iii) Protected wetlands acres
 - (iv) Steep slope acres
 - (v) Woodlands acres
 - (vi) Agricultural acres
 - (vii) Scenic views
 - (viii) Historic sites

- (b) Proposed Development.
 - (i) Total residential area acres
 - (ii) If an Open Space Design, total open space, including trails
 - (c) Yield Plan Calculation.
 - (d) General Drainage Plan.
3. Statement of intent. If applicable, provide a statement of intent establishing a homeowners association with bylaws and deed restrictions to include, but not be limited to, the following:
 - (a) Ownership, management and maintenance of defined trails and open space, and private stable, if any.
 - (b) Maintenance of public and private utilities.
 - (c) General architectural guidelines for principal dwellings and accessory structures.
 4. Proposed Open Space Management Plan. For Open Space Design subdivisions, a proposed open space management plan specifying the proposed uses and maintenance of the open space and trails.
 5. Where applicable, a historic preservation plan for any historic structures on the site.
 6. Required escrows and deposits to ensure payment of Township costs and expenses.
- C. Planning Commission Review. Upon receipt of a completed Concept Plan and all related components, the Town Clerk shall schedule the Concept Plan for review by the Planning Commission. The Planning Commission shall make its recommendations to the Town Board within thirty (30) days of the Zoning Administrator's receipt of a completed Concept Plan, and shall include its findings on the following:
1. The consistency of the Concept Plan with the goals, objectives and policies of the Town's Comprehensive Plan.

2. The consistency of the Concept Plan with the purpose of the Town's subdivision ordinance.
 3. The compliance of the Concept Plan with the development standards of the Township subdivision ordinance and regulations.
 4. The preservation and management of open space, if any, defined by the Concept Plan.
 5. The consistency of any rezoning with the Comprehensive Plan.
- D. Town Board Review. The Town Board shall review and determine whether to approve or deny the Concept Plan within sixty (60) days of the Zoning Administrator's receipt of completed applications. The Town Board may also table its review of the Concept Plan for a reasonable time, if necessary, to obtain information that will enable the Town Board to make a reasonable decision and if the extension is consented to by the applicant on the record. Subdivision Development Concept Plan approval shall require two (2) affirmative votes of the Town Board.

901.06.02 Preliminary Plat.

- A. After receiving comments from the Planning Commission during concept review, the applicant shall prepare and submit sixteen (16) copies of the preliminary plat to the Town Clerk. Such preliminary plat submission shall contain the information as described in Section 901.07, Preliminary and Final Plat Requirements.
- B. Prior to preliminary plat approval for property located in a Shoreland District or St Croix River District, the proposed subdivision must have the approval of the Minnesota Department of Natural Resources. The Zoning Administrator shall be responsible for forwarding copies of the proposed plat to the DNR.
- C. Approval from the watershed management organization governing the area of the proposed platted property must be obtained prior to approval of the preliminary plat. The applicant shall take whatever steps are necessary to obtain approval from the watershed management organization.
- D. If the property proposed to be subdivided abuts the right-of-way of a State highway, a copy of the preliminary plat shall be sent to the Minnesota Department of Transportation for their review and consideration.
- E. If the property proposed to be subdivided abuts the right-of-way of a county highway or road, a copy of the preliminary plat shall be sent to Washington County for their review and consideration.

901.06.03 Public Hearing.

- A. Upon receipt of a complete preliminary plat application, the Town Clerk shall schedule a public hearing on the proposed preliminary plat at the next regular meeting of the Planning Commission. Such hearing shall be scheduled no later than thirty (30) days from the date of the filing of the complete application.

- B. If the preliminary plat is not approved by the Planning Commission, the reasons for such action shall be recorded in the proceedings and transmitted to the applicant. The applicant can appeal such non-approval to the Town Board at its next regularly scheduled meeting, where the Board shall consider, and take action on, the plat.

- C. The Planning Commission reserves the right to require changes to any subdivision plan when they feel an alternative plan would be more sensitive to environmental resources or provide for a more efficient flow of traffic, or if the Planning Commission feels the plan is not sensitive to topographical constraints of the property, or does not meet the standards contained in the Township Development Code or Comprehensive Plan.

- D. If the preliminary plat is approved by the Planning Commission, the plat will be referred to the Town Board for their consideration at their next regularly scheduled meeting.

- E. If the preliminary plat is approved by the Town Board, the subdivider shall submit the final plat within 180 days after the approval or the approval of the preliminary plat shall be considered null and void. This 180-day time limit may be extended if requested by the applicant and approved by the Town Board. If the preliminary plat is approved by the Town Board, such approval shall not constitute final acceptance of the plat. Final approval will be required as specified in Section 901.06.04. In the event the property is to be developed in phases, the preliminary plat approval for the undeveloped portion or phase shall be valid for two (2) years from the date of preliminary plat approval.

- F. Should the subdivider desire to amend the preliminary plat as approved, he may submit an amended plat which shall follow the same procedure as a new plat. A public hearing and submission of a plat review fee shall not be required for amended preliminary plats unless, in the opinion of the Zoning Administrator, the amendment is of such scope as to constitute a new plat. In such cases, the plat shall be re-filed with sufficient copies, with payment of appropriate review fees, and shall require a public hearing.

The preliminary plan and review process requirements are further described in Section 901.07 of this Chapter.

901.06.04 Final Plat.

- A. After the preliminary plat has been reviewed and approved by the Town Board, seven (7) copies of the final plat containing the information detailed in Section 901.07.02 shall be submitted to the Town Clerk for delivery to the Town Zoning Administrator.
- B. Prior to approval of the final plat by the Town Board, the subdivider shall have executed a development agreement with the Township for the installation of all required improvements. Required improvements shall conform to approved engineering standards and be in compliance with these regulations.
- C. The Town Board shall consider the final plat no later than thirty (30) days from the date that the complete final plat is received. The Town Board's action on the final plat shall be recorded in its proceedings and transmitted to the applicant.
- D. If the final plat is recommended for approval by the Town Board, the applicant shall submit the final plat to the Washington County Recorder/Registrar of Titles within 120 days after approval. Such final plat shall be as recommended by the Town Board and shall be signed and acknowledged by each person owning a legal or equitable interest in the lands platted, including contract purchasers or those holding a security interest such as a mortgage or contract for deed, but excluding judgment or mechanics lien holders. In lieu of their signatures on the final plat, mortgage or contract for deed holders may sign and acknowledge a separate consent to plat.
- E. If the final plat is not presented to the County Recorder/Registrar of Titles within 120 days after approval by the Town Board, approval of the final plat shall be considered null and void. An extension to this 120-day time frame may be requested by the applicant and submitted in writing to the Town Board. Any extension must be approved by the Town Board.
- F. The County Recorder shall place the properly submitted final plat on the agenda of the County Board at its next regularly scheduled meeting for final approval. Final plat approval by the County shall not be granted unless the plat has first been approved by the Town Board.

Final Plat and review process requirements are further described in Section 901.07 of this Chapter.

Section 901.07: Preliminary and Final Plat Requirements

- 901.07.01** The following information shall be submitted for preliminary plat review. Graphic scale for any maps shall be one hundred (100) feet to one (1) inch.

A. Identification and Description.

1. Proposed name of the subdivision. This name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the County.
2. Legal description of the property.
3. Name and address of the record owner and any agent having control of the land; the name and address of the subdivider, land surveyor, engineer and designer of the plan.
4. North point vicinity map of area showing well known geographical points for orientation within a one-half (1/2) mile radius.
5. Date of preparation.

B. Existing Conditions.

1. Boundary lines shall be shown clearly and to such a degree of accuracy conforming to the plat that no major changes are necessary in preparing said plat.
2. Existing zoning classifications for land in and abutting the subdivision.
3. A resource inventory survey as described under 901.06.01, with all acreages calculated, not estimated.
4. Location, right-of-way width, and names of existing or platted roads or other public ways, parks and other public lands, significant physical features/natural resources, permanent buildings and structures, easements and section, municipal and school district lines within the plan and to a distance of three hundred (300) feet beyond.
5. Location and size of existing sewers, water mains, culverts, wells, septic systems, drain tile, or other underground facilities within the preliminary plat area and to a distance of one hundred (100) feet beyond. Such data as grades and location of drainage ways, catch basins, manholes, hydrants, and street pavement width and type shall also be shown.
6. Boundary lines of adjoining unsubdivided or subdivided land within one hundred (100) feet, identified by name and ownership, and including all contiguous land owned or controlled by the subdivider.
7. All wetlands shall be field delineated by a qualified and experienced wetlands delineator and shown appropriately on the preliminary plat. A

copy of the wetland delineation report shall be submitted. Mapping must show surveyed location of all wetland boundary markers.

8. Topographic data, including contours at vertical intervals of not more than two (2) feet, except in those areas where the slope is less than one percent (1%), a one (1) foot vertical interval shall be shown. Water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. National Geodetic Vertical Datum 1929 Adjustment or North American Vertical Datum 1988 shall be used for all topographic mapping, except where benchmarks are not available within ½ mile of site. Bench marks shall be established on-site and shown on map. At the discretion of the Zoning Administrator, spot elevations may substitute for the one-foot contour intervals.
9. A copy of all proposed and existing private restrictions.
10. Two soil borings shall be completed on each lot with results being submitted to the Washington County Department of Health, Environment and Land Management. If it appears that soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required at the discretion of the Department.
11. Soil types and location of limits of each soil type as shown in the Soil Survey of Washington County. If severe soil limitations for the intended use are noted in the Soil Survey on file in the Washington Soil and Water Conservation District Office, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be submitted as part of the application.
12. For lands proposed to be platted in the Saint Croix River District, the bluff line and all slopes over twelve percent (12%), with a horizontal distance of 50 feet or greater, shall be delineated. In Shoreland Districts, all slopes over eighteen percent (18%), with a horizontal distance of 50 feet or greater, shall be delineated. Slopes in excess of twenty-five percent (25%) shall be delineated on all properties.
13. On all lakes, ponds, streams, and wetlands, all water surface elevations, ordinary high water elevation and 100 year flood elevations shall be denoted unless deemed unnecessary by the Zoning Administrator.
14. The applicant shall document the path of each drainage way from the proposed development to the first DNR Protected Water within one mile of the project.

15. The applicant shall submit a yield plan calculation and yield plan drawing showing the desired number of dwelling lots, not to exceed the maximum allowed by the Township subdivision regulations. The yield plan drawing need not be engineered; however, it shall be drawn to scale and it shall identify all the major physical features on the parcel. Yield plan calculations are further defined in Section 901.12 of this Chapter. The minimum lot areas, width and maximum coverage are as follows:
 - (a) 2.5 contiguous buildable acres
 - (b) 160 feet of road frontage for lots of 2.5 and 4.0 acres, and 300 feet of road frontage for lots over 4.0 acres.
 - (c) Lot coverage with impervious surfaces shall not exceed 25% of the lot size.

C. Subdivision Design Features.

1. Layout of proposed roads showing right-of-way widths and proposed names of roads. The name of any road shall conform to the Washington County Uniform Street Naming and Property Numbering system as applicable.
2. Locations and widths of proposed open space corridors, trails, and utility easements.
3. Lot and block numbers, preliminary dimensions of lots and blocks and area of each lot. The buildable area of each lot, excluding land below the ordinary high water level of any natural environmental lake or recreational lake, wetlands, slopes over twenty-five percent (25%), and required setbacks and drainage easements, shall be noted.
4. Proposed front, side and rear building setbacks as well as setbacks from water bodies.
5. Gradients of proposed streets and drainage ways. Plans and profiles showing locations and typical cross-sections of street pavement including curbs, gutters, sidewalks, drainage easements, servitude right-of-ways, manholes and catch basins.
6. Areas (other than roads, trails and utility easements) intended to be dedicated or reserved for public or private use including the size of such area(s) in acres.
7. Grading and drainage plan for the entire subdivision. If any fill or excavation is proposed in a wetland or lake, any required approvals shall

be obtained from the Minnesota Department of Natural Resources, Army Corps of Engineers, Local Governmental Unit and/or watershed management organization.

8. Erosion and sediment control plan.

D. Other Information.

1. Statement of the proposed use of lots, stating number and type of residential dwelling units, and necessary buildings, if any, so as to reveal the effect of the development on traffic and fire
2. Location of proposed wells.
3. Provisions for sewage disposal, surface water drainage, and flood control. For each buildable lot, both a primary and an alternate septic drainfield must be accommodated and shown.
4. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Zoning Administrator may require the subdivider to submit a sketch plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use. If the plat contains either a temporary or permanent cul-de-sac, a plan showing the potential for development of adjacent property may also be required.
5. Such other information as may be requested by the Zoning Administrator or the Town Engineer.

901.07.02 The following information shall be submitted for final plat review.

- A. The final plat shall be prepared by a land surveyor who is licensed in the State of Minnesota and shall comply with the provisions of Minnesota State Statutes, these regulations, and the manual of Standard Procedures for Platting in Washington County.
- B. The subdivider shall submit, with the final plat, an Opinion of Title prepared by the subdivider's attorney or a current title insurance policy or commitment certified to within 30 days of submission of the final plat, to the Town Board for approval.
- C. On the final plat, the lowest floor elevation of the building shall be shown for all lots abutting a water body. Such elevation shall be at least two (2) feet above the

100 year flood elevation. A durable bench mark shall be established and shown on the map.

Section 901.08: General Development Standards

901.08.01 No land may be subdivided into buildable lots when it is unsuitable for reasons of flooding, inadequate drainage, soil and rock formations with severe limitation on development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of residents of the Town or future residents of the subdivision.

901.08.02 The Town reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of natural features such as large trees, water courses, scenic points and views, historical points, sight lines, and similar assets which, if retained, will preserve and/or add to the aesthetics and stability of the proposed development of the property.

901.08.03 The proposed subdivision shall conform to the Comprehensive Plan and Development Policies as adopted by the Town.

901.08.04 Where a subdivision shall abut or impact an existing County Road or County State Aid Highway, additional right-of-way may be required to be dedicated so long as the additional right-of-way is reasonably proportional to the impact of the subdivision on the health, safety and welfare of the Township.

901.08.05 Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the Township as a whole may develop harmoniously.

Section 901.09: Section 9 “**Minimum Design Standards**” of The Model Ordinance is adopted in its entirety.

901.09.01 Access Management (Access Roads and Driveways).

- A. For Major Subdivisions: For major subdivisions, whether they are Lot Averaging or Open Space Designs, the developer shall provide an access road within the development. This requirement is consistent with the safety goals expressed in the Comprehensive Plan, and the Plan’s objective of achieving a good mix of lot sizes, including some larger lots. An exception is granted for lots of more than 20 acres in Lot Averaging developments, with such lots being eligible for their own direct access to an existing public road.
- B. For Minor Subdivisions: Road access for minor subdivisions is treated as follows. For minor subdivisions where two (2) or more undeveloped lots are created, a common access is required for two (2) of the proposed lots except for lots which have access to a dead-end public road in which case those lots

may have their own access on the dead-end public road, or except where the Town finds that separate road access points for each lot are justified due to existing conditions that may include, but are not limited to, issues of sight distance, road speed, traffic volume, road frontage, physical barriers, or environmentally sensitive areas.

For minor subdivisions where a single undeveloped lot is divided from a parcel with an existing homestead, a common access to a public road may be provided to be shared by the undeveloped lot and the developed lot, or a separate access to a public road may be created for the new undeveloped lot if adequate driveway spacing can be achieved as determined by the Town.

- C. Roads shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds.

Section 901.10: Section 10 “**Engineering Standards**” of The Model Ordinance is adopted in its entirety.

Section 901.11: Section 11 “**Required Improvements**” of The Model Ordinance is adopted in its entirety.

Section 901.12: Yield Plan Calculation

For both major and minor subdivisions within the Town, a yield plan will be required to determine the number of buildable lots within the parcel. This is a two-step calculation.

First, the “dry” parcel size is determined by subtracting out any land below the ordinary high water mark of any lake, river or stream. Then, by using the “10 acre density lot averaging” calculation, the base number of lots will be determined by dividing the size of the “dry” parcel in acres by 10 acres. No rounding up will be done however an “80% rule” will be used to determine if an additional lot will be awarded whenever the parcel is not evenly divisible by 10. (For example, a parcel of 78 acres gives 7 lots, and the remaining 8 acres is 80% of the underlying lot average of 10 acres, thus the 8th lot would be granted. A parcel of 76 acres gives 7 lots, but the remaining 6 acres is less than 80% of 10 acres, thus an 8th lot would not be granted.)

When calculating the lot yield of a parcel under this section, lands under easement or otherwise dedicated to roads, utilities or public trails, will not be subtracted from the parcel size.

Once the base number of lots is determined, a “buildable land factor” will be applied. The amount of buildable land in the parcel will be determined by subtracting out the non-buildable areas such as wetlands, floodplain lands, and steep slopes. Dividing the remaining amount of buildable space by the total dry parcel size gives the “buildable land percentage” (BLP).

The BLP is then used to determine the “buildable land factor” (BLF) by using the table below. The resulting “buildable land factor” is applied to (multiplied by) the base number of lots to determine the net number of buildable lots, using standard arithmetic rounding. This is the parcel’s yield.

| <u>Buildable Land Percentage</u> | <u>Buildable Land Factor</u> |
|----------------------------------|------------------------------|
| 80 to 100% | 1.0 |
| 60 to 79.99% | 0.8 |
| 40 to 59.99% | 0.6 |
| 20 to 39.99% | 0.4 |

The above yield plan calculation notwithstanding, under no circumstance shall a parcel yield fewer lots with wetland, floodplain or steep slope acres than had those acres been totally in lake bottom. If a parcel has wetland, floodplain or steep slope acres and through the BLP/BLF calculation one or more lots are lost from the base number of lots, the yield plan calculation shall be redone as if those acres were all lake bottom acres. Whichever method gives the largest lot yield will be used for the lot yield calculation for the parcel.

Yield calculation example #1: A landowner wishes to develop a 68-acre parcel which contains 9 acres of lake bottom and a 20-acre wetland in the Rural Residential (RR) zone, using a 10-acre Lot Averaging design. The applicant needs to submit a “yield plan” which calculates the parcel’s “lot yield.”

First, the 9 acres of lake bottom are subtracted, and the remaining 59 “dry” acres are divided by the 10-acre average density for the Rural Residential zone, giving 5 lots with a remainder of 9 acres. Using an “80% rule,” the remaining 9 acres is at least 80% of the underlying 10 acre lot density, and thus a 6th lot is granted for the base yield.

Since the parcel has a 20-acre wetland, there are only 39 buildable acres, which gives a “buildable land percentage” (BLP) of 66% (39 divided by 59). Using the “buildable land factor” table, a BLP of 66% gives a “buildable land factor” (BLF) of 0.8. When the BLF of 0.8 is applied to (multiplied by) the base number of lots (6), a net lot yield of 4.8 results. BLF calculations are subject to arithmetic rounding, thus 5 lots is the net lot yield for the parcel.

Yield calculation example #2: A landowner wishes to subdivide a 37 acre parcel that contains 8 acres of wetland in the Rural Residential (RR) zone. The applicant needs to submit a “yield plan” which calculates the parcel’s “lot yield”.

First, the base number of lots are determined by dividing 37 acres by the zone’s 10-acre density, giving 3 lots with 7 remaining acres. Since the 7 acres fall short of the “80% rule” test, a 4th lot is not given, and the base number of lots is 3.

Then the 8 acres of wetlands are subtracted from the original parcel size giving 29 buildable acres. The “buildable land percentage” is then determined by dividing the 29 buildable acres by the base parcel size of 37 acres, giving a BLP of 78%, and therefore a “buildable land factor” (BFL) of 0.8. When the BFL is multiplied by the base number of 3 lots, the result is 2.4 lots, which rounds down to 2 lots.

Because there is a loss of lots due to wetlands, the lot yield calculation is done again, with the 8 acres considered as lake bottom. The 8 acres is subtracted from 37 acres, giving 29 acres. When 29 acres is divided by the 10-acre density, the result is 2 lots with 9 acres remaining, which meets the “80% rule” test, and a third lot is given. Since the “lake bottom” calculation yields more lots than the “wetland” calculation, the “lake bottom” calculation is used, and the parcel is awarded 3 lots.

Section 901.13: Lot Averaging Subdivisions

This section regulates major subdivisions in the Rural Residential zone, based on a 10-acre “lot averaging” design. See also Section 901.04, “Administration”.

901.13.01 Lot Averaging. This subdivision technique allows the property owner to create parcels both larger and smaller than those of a conventional subdivision plan provided the density of the development does not exceed the maximum density permitted for the zoning district. The density that can be achieved is determined by a yield plan as set forth at Section 901.12 of this Chapter and provided that the development meets all standards of this Chapter. This approach yields a subdivision with a 10-acre average lot size while promoting a mix of larger “hobby farm” parcels of more than 20 acres together with smaller parcels of less than 10 acres.

901.13.02 Lot Requirements For Lot Averaging Subdivisions.

- A. The minimum parcel size for a Lot Averaging Subdivision is 38 acres, and a lot yield of 4 lots. The total number of dwelling lots permitted shall be according to the density criteria and lot yield plan calculation contained in the Comprehensive Plan and further described in this Chapter.
- B. Minimum Individual Lot Size: 2.5 contiguous buildable acres.
- C. Minimum Public Road Frontage: 160 feet for lots between 2.5 and 4.0 acres; 300 feet for lots over 4.0 acres.
- D. Lot Coverage With Impervious Surfaces shall not exceed 25% of the lot size.
- E. Lot Design. Lots shall be designed:
 - 1. On the most suitable soils for sub-surface septic disposal.

2. Within any woodland contained in the parcel, or along the far edges of open fields, adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features).
 3. In locations least likely to visually block or interrupt scenic vistas, as designated in the Comprehensive Plan. The design must, as much as practicable, preserve the natural and scenic character of the parcel and the adjoining parcels, as further described in the Comprehensive Plan.
- F. Minimum Large Lot Requirements. Lot averaging plans shall retain certain large lots as set forth in this section, which lots shall not be further subdivided. The large lots shall be preserved by a Development Agreement, Deed Restriction or other provision satisfactory to the Town.
1. Parcels of 100 or more acres must contain three or more lots of more than 20 acres.
 2. Parcels of 80 to 99.99 acres must contain two or more lots of more than 20 acres.
 3. Parcels of 60 to 79.99 acres must contain one or more lots of more than 20 acres.
 4. Parcels of 40 to 59.99 acres are encouraged to have one lot of more than 20 acres, but it is not required.
- G. Densities. The density of a Lot Averaging development shall be determined by the lot yield calculation as defined in Section 901.12 of this Chapter.
- H. Gateway Trail Bonus. Where the owner agrees to host the Gateway Trail Extension (“the Trail”) and has entered into an easement or land conveyance with the Minnesota DNR for the provision of a corridor for the Trail, and the design and placement of the Trail on the owner’s property receives Town approval, one (1) bonus lot will be granted for an undeveloped parcel. The lot bonus is assigned to the land, and remains with the land until subdivided. Only one (1) bonus lot will be granted to an overall parcel, even if subdivision development occurs in stages.
1. For a parcel of land to be eligible for the bonus it must first be eligible for subdivision. This means it must be a parcel of 18 acres or more in the Rural Residential zone for example, the yield plan calculation indicates it is eligible for subdivision, and the resulting subdivision and associated lots must meet the physical standards for subdivisions and lots within the zone.

2. The bonus will be granted even though the Trail has not yet been built on the subject parcel.
3. If the owner donates a Trail easement or conveyed corridor at no cost to the DNR, May Township park dedication fees, normally collected on a per-lot basis at the time of subdivision approval, will be waived.
4. If the owner is compensated by the DNR for the Trail easement or conveyed corridor, then normal park dedication fees will be due at the time of subdivision approval with the exception of those lots that actually border the Trail, where the park dedication fee will be waived.

Exception:

The exception for provisions 2, 3 and 4 above are parcels which have a completed easement or conveyed corridor in place to host the Trail, yet the Trail is actually built elsewhere, and the easement or conveyed corridor will not be used to host the Trail. In these cases, if the parcel has not yet been subdivided, the Trail lot bonus and park dedication fee relief will not be granted at the time of subdivision.

5. A total of seven (7) Trail bonus lots shall be authorized under this ordinance.

901.13.03 Septic Requirements. In addition to the requirements of Articles 305 and 505 of this Code, the following requirements shall apply:

- A. Lot Averaging developments shall be platted to accommodate detached single-family dwelling lots with individual septic tanks and drainfields.
- B. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for Sewage Treatment Systems WPC-7080 and its Appendices, or the INPCA standards in effect at the time of installation, and to the Town's and County's Septic System Regulations.

901.13.04 Historic Preservation. Historic structures on the site shall be identified. If so designated, historic structures shall be restored or rehabilitated according to applicable standards.

901.13.05 Lot Averaging Approval. No property may be developed as a Lot Averaging Design unless approval is obtained from the Town Board following its approval of the Concept Plan, Preliminary Plat and Final Plat described herein or otherwise required under the May Town Code.

Section 901.14: Open Space Design Subdivisions (“Cluster Developments”)

This section regulates major subdivisions in the Rural Residential Zone, based on an “Open Space” design. See also Section 901.04, “Administration”.

- 901.14.01** Purpose. The purpose of the Subdivision Development approach utilizing an Open Space Design is to maintain the rural character of May Township by preserving agricultural land, woodlands, corridors and other significant natural features while allowing residential development consistent with the goals and objectives of the Town's Comprehensive Plan. This type of development provides an alternative to Lot Averaging subdivision with the protected open space enhancing and preserving the natural character of the community.
- 901.14.02** Intent. It is the intent of the Town of May to accomplish the stated purpose of Open Space Design by adopting the development regulations contained herein, and by requiring property to be developed in an Open Space Design to comply with these regulations and the Town's Comprehensive Plan. In return for establishing an Open Space Design with the required open space as contained herein, it is the intent of the Town to allow a density bonus that will provide a development density greater than the standard 10-acre density in the Rural Residential Zone.
- 901.14.03** Use Regulations. Within an Open Space Design Subdivision Development, the following uses are allowed:
- A. Permitted Use.
 - 1. Detached single-family dwelling.
 - 2. Open space.
 - 3. Conservation easements.
 - 4. Agricultural.
 - 5. Non-motorized recreation, including equestrian activities.
 - B. Uses Allowed by Conditional Use Permit.
 - 1. Private stables.
 - C. Accessory Uses. Uses that are typically found accessory to a permitted use.
 - D. Prohibited Uses. All other uses are hereby prohibited.

901.14.04 Open Space Approval Required. No property may be developed as Open Space Design unless approval is obtained from the Town Board following its approval of the Concept Plan, Preliminary Plat and Final Plat described herein or otherwise required under the May Town Code.

901.14.05 Development Standards. Open Space Designs shall comply with the following minimum standards.

A. Land Area. Applications for a residential development in an Open Space Design shall meet all the following criteria:

1. The minimum parcel size for an Open Space Design is 38 acres, and a lot yield of 4 lots. The total number of dwelling lots permitted shall be according to the development density criteria and lot yield plan calculation contained in the Comprehensive Plan and further described in Section 901.12.
2. The total open space area within the Open Space Design shall be a least 40% percent of the original parcel up to a maximum of 50%. The land that is not buildable shall generally become part of the open space.
3. The open space shall consist of agricultural lands, natural habitat, non-motorized trails or recreational areas with minimal improvements.
4. At a minimum, the trails shall be a minimum of eight feet wide and surfaced with wood chips or other natural materials, or otherwise mowed or maintained. The trails shall be properly identified on plat maps and committed as open space in all associated documents. Trails shall be contained within easement corridors of at least 10 feet in width up to a maximum of 50 feet in width.
5. All Open Space Design lots shall contain a minimum of 2.5 contiguous buildable acres.

B. Open Space.

1. All open space uses, access and maintenance provisions must be approved by the Town in advance of subdivision approval.
2. All open space shall be subject to a conservation easement, and shall be used only for the purposes as defined under 901.14.05(B)(7). Open space shall be controlled in one or more methods as determined in the Town's sole discretion, as follows:
 - (a) Owned by an individual or legal entity who will use the land for open space purposes as provided by permanent conservation

restrictions (in accordance with M.S.§84C.01-.05), to an acceptable Land Trust and to the Town, as approved by the Town; or

- (b) Deeded to the Town of May for public purposes with permanent conservation restrictions (in accordance with M.S.§84C.01-.05.), or to an acceptable Land Trust as approved by the Town.
- 3. Homeowner's Association recreational facilities shall be provided within each Open Space Development as specified in this Chapter.
- 4. The open space land shall be maintained for the purposes for which it was set aside. If open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of deed covenants, conservation easements and homeowners association by-laws to prospective purchasers, describing land management practices to be followed by the party or parties responsible for maintaining the open space.
- 5. A homeowner's association shall be established to permanently maintain open space, trails and recreational facilities, and to provide other functions. The homeowner's association agreement shall guarantee continuing maintenance and give lien rights to the Town if there is lack of such maintenance. Such agreement shall be submitted to the Town Board as part of the requirements for an Open Space Design approval.
- 6. At least 75% of the open space shall be a contiguous block, providing a large open space area.
- 7. The open space shall be used only for agricultural, equestrian, low-impact non-motorized recreation, and natural area preservation uses.

C. Lot Design. Lots shall be designed:

- 1. On the most suitable soils for sub-surface septic disposal.
- 2. Within any woodland contained in the parcel, or along the far edges of open fields, adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features).
- 3. In locations least likely to visually block or interrupt scenic vistas, as designated in the Comprehensive Plan. The design must, as much as

practicable, preserve the natural and scenic character of the parcel and the adjoining parcels.

4. Such that each lot in the proposed development contains at least 2.5 contiguous buildable acres and has 300 feet of frontage on a public road.
 5. Such that lots between 2.5 and 4.0 acres shall have a minimum road frontage of 160 feet, and lots over 4.0 acres shall have a minimum road frontage of 300 feet.
 6. Such that lot coverage with impervious surfaces shall not exceed 25% of the lot size.
 7. Such that all lots within the open space development must have unrestricted pedestrian access to the open space via adjacency, pathway or public road access.
 8. Such that at least 70% of the lots must border the open space and 100% of the lots must have unencumbered access to the open space via easement, generally through narrow border easements and pathways.
- D. Pathways. Pathways shall be identified which will serve the buildable land area and the open space land, and to connect where feasible to planned or developed pathways on adjacent parcels, or to a local road.
- E. Densities and Bonuses. The density for an Open Space Design development shall be determined by a lot yield calculation as defined in Section 901.12 of this Chapter. To encourage Open Space Design and encourage hosting the Gateway Trail Extension, the following density bonuses shall apply:
1. A density bonus not to exceed 25% of the lots defined by the yield plan if the application meets all criteria of an Open Space Design as stated herein.
 2. Gateway Trail Bonus. Where the owner agrees to host the Gateway Trail Extension (“the Trail”) and has entered into an easement or land conveyance with the Minnesota DNR for the provision of a corridor for the Trail, and the design and placement of the Trail on the owner’s property receives Town approval, one (1) bonus lot will be granted for an undeveloped parcel. The lot bonus is assigned to the land, and remains with the land until subdivided. Only one (1) bonus lot will be granted to an overall parcel, even if subdivision development occurs in stages.
 - (a) For a parcel of land to be eligible for the bonus it must first be eligible for subdivision. This means it must be a parcel of 18

acres or more in the Rural Residential zone for example, the yield plan calculation indicates it is eligible for subdivision, and the resulting subdivision and associated lots must meet the physical standards for subdivisions and lots within the zone.

- (b) The bonus will be granted even though the Trail has not yet been built on the subject parcel.
- (c) If the owner donates a Trail easement or conveyed corridor at no cost to the DNR, May Township park dedication fees, normally collected on a per-lot basis at the time of subdivision approval, will be waived.
- (d) If the owner is compensated by the DNR for the Trail easement or conveyed corridor, then normal park dedication fees will be due at the time of subdivision approval with the exception of those lots that actually border the Trail, where the park dedication fee will be waived.

Exception:

The exception for provisions (b), (c) and (d) above are parcels which have a completed easement or conveyed corridor in place to host the Trail, yet the Trail is actually built elsewhere, and the easement or conveyed corridor will not be used to host the Trail. In these cases, if the parcel has not yet been subdivided, the Trail lot bonus and park dedication fee relief will not be granted at the time of subdivision.

- (e) A total of seven (7) Trail bonus lots shall be authorized under this ordinance.

F. Septic Requirements. In addition to the requirements of Section 505.01 of this Code, the following requirements shall apply:

- 1. Open Space Design developments shall be platted to accommodate detached single-family dwelling lots with individual septic tanks and drainfields.
- 2. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for Sewage Treatment Systems WPC-7080 and its Appendices, or the INPCA standards in effect at the time of installation, and to the Town's and County's Septic System Regulations.

G. Streets. In addition to the criteria in the May Town Subdivision Ordinance and Regulations, streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation:

1. Roads shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds.
2. Street widths and alignments should be carefully scaled to neighborhood size and be patterned after the character of existing residential streets.
3. The applicant must demonstrate that access from a primary road to the site is adequate, has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public and quietude.

901.14.06 Historic Preservation. Historic structures on the site shall be identified. If so designated, historic structures shall be restored or rehabilitated according to applicable standards. (See also Section 901.04, “Administration”.)

Section 901.15: Minor Subdivisions

This section regulates minor subdivisions in the Rural Residential Zone. See also Section 901.04, “Administration”.

901.15.01 Subdivisions producing fewer than 4 lots are “minor subdivisions.” Only “Lot Averaging” is allowed in Minor Subdivisions; no “Open Space Designs” will be approved. Further, there is no requirement that at least one lot be more than 20 acres, however, the Town will encourage varying lot sizes in minor subdivisions of 30 or more acres.

901.15.02 No concept plan or open space management plan is required for minor subdivisions, however a yield plan and resource inventory survey are required.

901.15.03 Minimum Individual Lot Size: 2.5 contiguous buildable acres.

901.15.04 Lots in minor subdivisions whose access will be from an existing public road shall have the following minimum road frontage requirements: 160 feet for lots between 2.5 and 4.0 acres; 300 feet for lots over 4.0 acres.

901.15.05 Lot coverage with impervious surfaces shall not exceed 25% of the lot size.

901.15.06 Densities. The density of a minor subdivision shall be determined by the lot yield calculation as defined in Section 901.12 of this Chapter.

901.15.07 Septic Requirements. In addition to the requirements of Articles 305 and 505 of this Code, the following requirements shall apply:

- A. Minor Subdivision developments shall be platted to accommodate detached single-family dwelling lots with individual septic tanks and drainfields.
- B. All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for Sewage Treatment Systems WPC-7080 and its Appendices, or the INPCA standards in effect at the time of installation, and to the Town's and County's Septic System Regulations.

901.15.08 Historic Preservation. Historic structures on the site shall be identified. If so designated, historic structures shall be restored or rehabilitated according to applicable standards.

901.15.09 No Gateway Trail bonus will be given to minor subdivisions.

Section 901.16 Subdivision Development in the Shoreland Overlay Districts

The Town of May has adopted the model shoreland management ordinances for communities in Washington County for the Shoreland Overlay District and the St. Croix River Bluff-land and Shoreland Overlay District, as further specified in Articles 806 and 805 respectively of the May Town Code.

Development within the Shoreland Overlay Districts will be governed by the model shoreland management ordinances and this Chapter 9. For subdivision developments in tier one lands and in existing tier two lands, the lot densities specified in the model shoreland management ordinance shall apply.

For tier two lands created after the adoption of this Chapter 9, the underlying density of the zone as specified in the May Town Code shall apply.

Section 901.17: Section 12 "**Financial Guarantee**" of The Model Ordinance is adopted in its entirety.

Section 901.18: Section 13 "**Separability**" of The Model Ordinance is adopted in its entirety.

901.18.01. Where provisions of this Chapter and those of Chapter 7 differ or conflict, then this Chapter shall apply.

Section 901.19: Information Requirements: Additions/Exceptions

901.19.01 Records. The Town Clerk shall maintain a record of all development documents including information on the use, locations, conditions imposed, time limits, review dates, and such other information as may be appropriate.

ARTICLE 902: UNIFORM STREET NAMES

Section 902.01: Uniform Naming and Numbering System

A uniform system of naming streets and numbering properties and principal buildings, as shown in the manual of procedures identified by the title "Uniform Street Naming and Property Numbering System", which is filed in the Washington County Courthouse is hereby adopted for use in the Town of May. This map and all explanatory matter thereon is hereby adopted and made a part of this Article of the Code.

Section 902.02: Assignment of Names and Numbers

- A. All properties or parcels of land within the Town of May shall hereafter be identified by reference to the uniform numbering system adopted herein, provided; all existing numbers of property and buildings not now in conformity with provisions of this Article shall be changed to conform to the system herein adopted within six (6) months from the date of passage of this ordinance. The names of all streets in the Town of May shall be as designated by the Uniform Street Naming System.
- B. Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.
- C. Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located.

Section 902.03: Administration

The Town Board shall be responsible for maintaining the numbering system as per the Agreement between the Town of May and the County of Washington. In the performance of this responsibility, he shall be guided by the provisions of Section 902.02 of this Article of the Code.

The Town Building Inspector shall keep a record of all numbers assigned under this Article of the Code.

The Town Board, in cooperation with the local municipality, shall assign street names and numbers to any property in the Town of May upon request of a number for each principal building or separate front entrance to such building. In doing so, the official shall assign only the numbers assigned to such building under the provisions of this Article. Provided, however, that the recorder may assign additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship has been worked on any property owner.

Chapter 10

SIGN REGULATIONS

ARTICLE 1001: PURPOSE

The purpose of this chapter is to protect and promote the general welfare, health, safety and order within the Town through regulations governing the safe placement, erection, use and maintenance of signs visible from public right-of-ways and properties.

The provisions of this chapter are further intended to encourage creativity, a reasonable degree of freedom of choice and opportunity for effective communication and a sense of concern for the visual amenities on those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this chapter, while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

ARTICLE 1002: DEFINITIONS

For the purposes of this chapter, certain words and phrases are defined as follows:

- (1) Sign. A sign as defined in Section 702.01, Definitions and which is displayed outdoors.
- (2) Sign, Accessory. A business sign relating to the business activity or service conducted on the premises upon which the sign is placed.
- (3) Sign, Administrator. The officer or other person charged with the administration and enforcement of this Article, and any duly authorized deputy.
- (4) Sign, Address. A postal identification number only, whether written or in numeric form.
- (5) Sign, Area. That area within the marginal lines of the surface which bears the advertisement or in the case of messages, figures, or symbols attached directly to any part of a building, that area which is included in the smallest rectangle which can be made to circumscribe the message, figures, or symbol displayed thereon. The maximum sign area for a free standing or pylon sign refers to a single surface.
- (6) Sign, Billboard. A sign displaying products, services, commodities, entertainment or other activity not offered on the premises upon which the sign is located.
- (7) Sign, Campaign. A sign erected by a bona fide candidate for public office or by a person or group promoting a candidate for public office or a political issue.
- (8) Sign, Directional. A sign to direct patrons to an event, business use or service located within the corporate limits of the Town of May and not carried out on the premises where the sign is located.
- (9) Sign, Farm. A sign on premise identifying a farm or equine operation. A sign advertising farm products which are produced by the owner or occupant of the premises on which the sign is displayed. (Amended by Ord. 2012-01, Effective 2/16/12)
- (10) Sign, Flashing. An illuminated sign on which such illumination is not kept stationary or constant in intensity.
- (11) Sign, Free Standing. A sign which is placed in the ground and not affixed to any part of any structure.
- (12) Sign, Governmental. A sign which is erected by a governmental unit for the purpose of directing or guiding the public.

- (13) Sign, Illuminated. A sign which is illuminated by an artificial light source.
- (14) Sign, Institutional Directional. A sign which bears the address and/or name of a church, school, library, hospital, non-profit, Conservancy use, recreational area or similar use, and directs traffic or pedestrians to such institution. (Amended by Ord. 2012-01, Effective 2/16/12)
- (15) Sign, Institutional. A sign which bears the name, logo, hours of operation or other identifying information of a church, school, library, hospital, non-profit, Conservancy use, recreational area or similar use, and is located on the site of such institutional use. (Amended by Ord. 2012-01, Effective 2/16/12)
- (16) Sign, Motion. A sign which revolves, rotates, or has any moving parts which attract attention.
- (17) Reserved.
- (18) Sign, Name Plate, Residential and Institutional. A sign which bears the name and address of the business owner, or the occupants of premise.
- (19) Sign, Non-conforming. A sign which lawfully existed prior to adoption of this Code but does not conform to the newly enacted requirements of this Code.
- (20) Sign, Portable. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground or any structure.
- (21) Sign, Projecting. A sign, all or any part of which extends laterally from the building more than 12 inches.
- (22) Sign, Pylon. A free standing structure which is in excess of 20 feet in height with a sign mounted thereon.
- (23) Sign, Roof. A sign erected upon the roof of a structure to which it is affixed.
- (24) Sign, Temporary. A sign which is erected or displayed for a limited period of time.
- (25) Sign, Traffic Directional. A sign which is erected on the premise by the owner or occupant of the premise for the purpose of guiding vehicles and pedestrian traffic in finding locations such as parking, shipping and receiving.
- (26) Sign, Wall. A sign affixed to the wall of a building.
- (27) Sign, Warning. A sign which prohibits specified activities or informs of danger, hazards or restrictions such as "No Hunting, No Trespassing, Beware of Dog, Keep Off", and similar material.

- (28) Occasional Sale. The sale of any items not held in the ordinary course of a business by the owner of such items, upon the premises owned or occupied by the owner of the items.
- (29) Zoning District. The Zoning District as defined in Section 702.01, Definitions.

ARTICLE 1003: GENERAL APPLICATION

It shall be unlawful for any sign to be erected, altered, repaired, removed, equipped or maintained in the Town of May which does not conform to this Code. All signs listed in the definitions at the front of this Chapter are allowed except those which are specifically prohibited by this Chapter or elsewhere in this Code. (Amended by Ord. 2012-01, Effective 2/16/12)

Section 1003.01: Construction and Maintenance

All signs shall be constructed in such manner and of such material that they shall be safe and substantial, shall be properly secured, supported, and braced, shall be kept in good repair, and shall be maintained in a neat, clean and attractive condition.

Section 1003.02: Location

No sign other than a governmental sign, warning sign, or a sign advertising an occasional sale shall be erected or temporarily placed within any street right-of-way or upon any public easement.

Section 1003.03: Interference with Traffic

A permit for any sign to be located within 50 feet of any street or official traffic sign or signal or within 50 feet of any intersection, driveway, or crosswalk will be issued only:

- A. If the sign will not interfere with the ability of drivers and pedestrians to see such traffic sign or signal or such intersection, driveway or crosswalk, and
- B. If the sign will not distract drivers nor cause any interference with such official traffic sign or signal.

Section 1003.04: Illumination

Illuminated signs shall be subject to the electrical requirements of the State Electrical Code of the State of Minnesota.

- A. Illuminated signs shall be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver. Where the sign is illuminated the source of light shall not be directed upon any part of a residence or into any area zoned for residential use. Such illumination must be indirect or diffused.

Section 1003.05: Prohibited Signs

- A. Flashing Signs. Flashing signs and motion signs are prohibited in all Districts.

- B. Billboards. Billboards are prohibited in all Districts.
- C. Wall Signs. Wall signs painted directly on walls or buildings are prohibited in all Districts.
- D. Roof Signs. Roof signs erected on the roof, or in the air space over the roof of any structure are prohibited in all Districts.

Section 1003.06: Sign Specific Standards

The following sign-specific standards shall apply: (Amended by Ord. 2012-01, Effective 2/16/12)

- A. Development Area. One name plate is permitted for each development area of five or more lots, provided that it shall be no more than two surfaces, and shall contain the name and address of the development area only. (Amended by Ord. 2012-01, Effective 2/16/12)
- B. Institutional Signs. One institutional sign is permitted for each institution provided that no sign shall exceed 20 square feet per surface, and shall have no more than two surfaces. (Amended by Ord. 2012-01, Effective 2/16/12)
- C. Directional Signs, Permitted Business and Institutions. A directional sign or the number which is necessary to direct patrons, is permitted for each business or institutional premise, provided that each sign shall be no greater than four square feet in area per surface, shall have no more than two surfaces. (Amended by Ord. 2012-01, Effective 2/16/12)
- D. Warning Signs. Permitted in all Districts.
- E. Farm Signs. One sign is allowed for a farm or equine operation, provided that no farm sign shall exceed twenty (20) square feet per surface and shall have no more than two (2) surfaces. (Amended by Ord. 2012-01, Effective 2/16/12)
- F. Business Signs. No business sign of any size shall be erected on a property unless a conditional, interim, or special use permit has been issued by the Town authorizing such business activity on that property. (Amended by Ord. 2012-01, Effective 2/16/12)
- G. Height Limit. No sign shall be higher than ten (10) feet as measured from the grade of the nearest road or driveway at the crown of the road or driveway. (Amended by Ord. 2012-01, Effective 2/16/12)

Section 1003.07: Temporary Signs

Temporary signs shall not be illuminated, shall be limited to the following uses, and shall be regulated as follows:

- A. Sale of Individual Parcels. For the purposes of selling or leasing individual lots or homes such signs shall not exceed four square feet per surface and shall be removed within seven days following the lease or sale.
- B. Sale of Acreage or Tract. One temporary real estate sign is permitted for the purpose of selling an acreage, promoting a residential project of five or more dwelling units or promoting any non-residential project, provided that such sign shall not exceed 32 square feet in area per surface, and shall be limited to a single surface, and is located no less than 100 feet from any pre-existing residence. Such sign shall be removed upon completion, sale, lease or other disposition of the project. One additional such temporary real estate sign shall be permitted for each additional street upon which the property abuts.
- C. Construction Signs. One temporary identification sign shall be permitted upon a construction site in any district, said sign shall not exceed 32 square feet in area per surface, and shall be limited to a single surface, shall be located upon the subject construction site, and shall be removed upon completion of the project.
- D. Campaign Signs. Campaign signs shall be permitted in residential districts, provided such signs do not exceed eight square feet in area per surface, and may be placed in other districts provided such signs do not exceed eight square feet in area. Campaign signs are subject to the following additional regulations:
 - 1. Campaign signs shall not be posted on any public right-of-way or public property.
 - 2. Campaign signs shall not be attached to a tree or utility pole, whether on private property or public.
 - 3. No person shall post or attempt to post a campaign sign on private property without the express consent of the owner or occupant of such property.
 - 4. All campaign signs shall be removed within 14 days after the election.
- E. Occasional Sales. A temporary sign is permitted for each occasional sale, provided such sign does not exceed 16 square feet in area per surface and has no more than two surfaces, and further provided that such sign be removed within three days after the sale.

Section 1003.08: Nonconforming Signs

Nonconforming signs shall be discontinued within one (1) year after the effective date of the Sign Regulations of the Town of May. Business signs on the premises of a nonconforming building or use may be continued, but signs shall not be increased in number, area, height, or illumination.

- A. Temporary or Portable Signs. Any nonconforming temporary or portable signs existing at the time of adoption of this Chapter shall be made to comply with the requirements set forth herein or shall be removed within 90 days after the adoption of this Article.
- B. Permanent On-Premise Signs. Nonconforming permanent signs which are accessory to the premises on which they are erected and which were lawfully existing at the time of adoption of this Article shall be allowed to continue in use, but shall not be rebuilt, altered other than to change the message, or relocated without being brought into compliance with the requirements of this Article. After a nonconforming sign has been removed, it shall not be replaced by another nonconforming sign.
- C. Discontinued Use of Nonconforming Signs. Whenever use of a nonconforming sign has been discontinued for a period of three months, such use shall not thereafter be resumed unless in conformance with the provisions of this Article.
- D. Dilapidated Signs. A nonconforming sign or sign structure shall be removed within 10 days after notice in writing to the owner that the sign or sign structure is unsound, damaged, in disrepair or hazardous. Failure of notification on the part of the Town shall not place any liability on the part of the Town nor absolve or mitigate any liability on the part of the owner of such sign or sign structure.

ARTICLE 1004: ADMINISTRATION AND ENFORCEMENT

Section 1004.01: Permits Required

The owner or occupant of the premises on which a sign is to be erected, or the owner or installer or such sign, shall file application with the Town Clerk for a permit to erect such sign. Permits must be acquired for all new, relocated, modified, or redesigned signs except those specifically excepted below. The applicant shall submit with the application a complete description of the sign and a scale drawing showing its size, location, manner of construction and such other information as shall be required by the Zoning Administrator. If a sign authorized by permit has not been installed within six months after the date of issuance of said permit, the permit shall become null and void.

The requirement for a sign permit may be satisfied by a stand-alone sign permit, or may be satisfied under a more comprehensive conditional, interim, or special use permit issued for a small business, non-profit, mine or other use governed by a Town permit. (Amended by Ord. 2012-01, Effective 2/16/12)

All signs requiring a permit must have a sign design submitted with the permit application showing size, height and specific graphical appearance. Approval of such permit will include approval of the sign design by the Town. (Amended by Ord. 2012-01, Effective 2/16/12)

- A. Issuance of Permits. All residential, business or industrial plats, special use permit applications, or development projects of every kind, which require approval by the Town Board, shall be accompanied by a site plan showing the size, type and location of proposed signs. Project approval shall include approval of the general location, size and type of proposed signs, provided, however, that the specific provisions of this sign ordinance shall be controlling. Any major change in location, size, or type of such proposed signs shall require the approval of the Town Board, provided that the specific provisions of this sign ordinance shall be controlling. All other sign permits shall be approved and issued by the Zoning Administrator.
- B. Fees. For any sign for which a permit is required, a fee in an amount set by Town Board Resolution shall be paid to the Town Clerk at the time application is made.
 1. Reimbursement for Costs. In addition to the fee described in Section 1004.01, the applicant shall sign an agreement, on forms provided by the Town, to pay all costs incurred by the Town in processing the application.
- C. Exceptions. The exceptions permitted by this section shall apply only to the requirement of a permit and shall not be construed as excusing the installer of the sign or the owner of the property upon which the sign is located from conforming with other provisions of this Code. No permit is required under this section for the following:

1. Signs having an area of four square feet or less.
 2. Temporary window signs placed within a building and not exceeding one third of the window area.
 3. Memorial signs or tablets containing the name of the building, its use, and date erection when cut or built into the walls of the building and constructed of bronze, brass, stone, marble or similar material.
- D. Variances. The Planning Commission may recommend and the Town Board may grant variances from the literal provisions of this Code when consistent with Section 704.03.E. (Amended Ord. 2013-05, Effective December 13, 2013)
- E. Conditions and Restrictions. Upon the granting of a variance the Town Board may impose conditions and restrictions with the spirit and intent of the Sign Regulations.

Section 1004.02: Administrative Permits

Administrative permits may be issued for the following purposes and subject to the following provisions:

- A. Purposes. Administrative permits may be issued for or deny portable signs.
- B. Duration and Number. Administrative permits are valid for a reasonable period not to exceed 120 hours and no more than three administrative permits may be issued for a premise during any period of 12 consecutive months.
- C. Limitation. Signs approved by administrative permit shall conform to the requirements of the Sign Regulation except that the sign area shall be in addition to all other legal sign area on the premises.

Section 1004.03: Violation and Penalty Clause

It shall be unlawful for any person, firm or corporation to erect, alter, repair, remove, equip, maintain, or permit any sign structure or cause or permit the same to be done in violation of any of the provisions of this Code. Whoever does any act or omits to do any act which constitutes a breach of any section of this Code shall, upon conviction thereof by lawful authority, be punished by a fine not to exceed \$700 or by imprisonment not to exceed 90 days or both. Each day any violation shall continue it shall constitute a separate offense.

Chapter 11

STREETS

ARTICLE 1101: RESERVED

ARTICLE 1102: PRESERVATION OF CERTAIN TOWNSHIP ROADS

Section 1102.01: Purpose

In keeping with the Town's stated goal in its "Comprehensive Plan 2020", the Town may designate certain Township gravel roads as Township "Rustic Roads" or Township "Scenic Roads", and may further establish the extent to which these roads may be improved and maintained.

Section 1102.02: Definitions

- (1) Rustic Roads. Township Rustic Roads are those gravel roads of special cultural, scenic or historic significance and which the Town deems must be maintained at a rural service level (gravel), and which may not be upgraded, such as by widening, straightening or paving to accommodate increased traffic volumes and/or speeds.
- (2) Scenic Roads. Township Scenic Roads are those gravel roads of special scenic significance, and which the Town deems must be maintained as a rural service level (gravel), but which may be upgraded to handle increased traffic, such as by widening and/or straightening, but which may not be paved.

Section 1102.03: Designations

- A. The following Township roads have been designated Township "Rustic Roads":
 1. Orwell Road from CSAH 4 to CSAH 7
 2. 177th Street from CSAH 3 to CSAH 4
 3. Old Guslander Trail from CSAH 4 to the Township boundary with Marine-On-St. Croix, MN
- B. The following township roads have been designated Township "Scenic Roads":
 1. The gravel portion of May Avenue
 2. 150th Street
 3. Oldfield Road from CR55 to Ostlund Trail
 4. 120th Street from May Avenue to CR 55
 5. Ozark Trail off CSAH 11 serving Big Carnelian Lake

Section 1102.04: Bicycle Route

- A. The following portion of Old Guslander Road is designated a “Bicycle Route”:
1. Ten feet on either side of a line marking the center of Old Guslander Road along its east-west axis.
 2. Vehicles using Old Guslander Road shall not exceed 25 m.p.h.
 3. A violation of this Ordinance shall constitute a petty misdemeanor.

ARTICLE 1103: TRAFFIC CONTROL

Section 1103.01: Purpose

- A. The traffic generated by any use shall be controlled so as to prevent: (a) congestion of the public streets; (b) traffic hazards; and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forwarded moving with no backing into streets.

Section 1103.02: Standards

- A. On any corner lot, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets within fifteen (15) feet of the intersecting street right-of-way lines. The restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within fifteen (15) feet of any intersecting street right-of-way lines.
- B. Where commercial or mining land uses are adjacent to residential districts, ingress and egress from the commercial or mining uses on streets leading to or through the residential districts shall not be permitted unless it can be demonstrated that adequate access to public right-of-way is thereby denied. In this manner traffic shall be controlled to insure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.

Section 1103.03: Road Weight Limits

- A. Need. Certain roads (hereinafter the "road" or "the roads") will be seriously damaged or destroyed by reason of increased heavy vehicle traffic unless the usage of heavy vehicles thereon is prohibited or restricted, or unless permissible weights allowed are reduced. Additionally, because the roads may be narrow and winding, gravel and without shoulders, the public safety would be served by limiting access by larger, heavier vehicles.

Accordingly, it is the intent of the Town Board to enumerate certain roads which are subject to the year-round weight limits as set forth herein.

- B. Weight Limits.

Vehicles traveling or parked on the roads may not exceed five tons gross weight per axle. Weight limits may be further reduced by the Town Engineer upon approval of the Town Board as necessary to protect public safety, and/or the public's investment in the roadway, by the posting of signs identifying the reduced weight limit on the road where the reduced weight limit is to apply.

C. Exemptions.

1. The weight limits hereby set forth are not applicable to:
 - (a) emergency vehicles, refuse collection trucks or to public school buses operated by, or under contract to, any of the school districts serving residents of the Town of May;
 - (b) a motor vehicle identified as owned by or operated under contract to a governmental agency or political subdivision and being used in the course of official governmental business;
 - (c) a motor vehicle owned by or operated under contract to a utility whether privately or publicly owned when used in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work on property with its primary driveway access on the Road;
 - (d) a commercial or agricultural/farming vehicle when such vehicle is used in connection with the performance of a service to or on real property with its primary driveway access on the Road.
2. Further exemptions from the weight limits established herein may be granted by the Town Board upon recommendation by the Town Engineer. These exemptions will be granted for hardship cases involving the public health, safety and/or welfare. Temporary exemptions may be granted by the Town Engineer upon approval of a Town Supervisor.

D. Violation.

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor

E. Subject Roads

The roads subject to this ordinance are:

1. Old Guslander Trail North.

Additional affected roads may be enumerated and set forth herein after amendment of this Article.

ARTICLE 1104: PARKING CONTROL
(Adopted by Ord. 2014-08, Effective September 10, 2014)

Section 1104.01: Presumption

As to any vehicle parked in violation of this Ordinance when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner.

Section 1104.02: General Parking Prohibitions

It is unlawful for any person to stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device, in any of the following places:

1. On a sidewalk;
2. In front of any driveway;
3. Within an intersection;
4. Within thirty (30) feet of any no parking sign erected by the Township, or between any no parking signs erected by the Town;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at any intersection;
7. On the roadway side of any vehicle stopped or parked at the edge or curb of a road.

Section 1104.03: Specific Parking Prohibition Designations; “No Parking Zones”

It shall be unlawful to, at any time, park a vehicle or any item described in Section 1104.10 herein, in any of the No Parking Zones defined in Exhibit A herein. The Town Board may, from time to time, modify Exhibit A.

Section 1104.04: Unauthorized Removal of Signs

It is unlawful for any person to move or damage any no parking sign.

Section 1104.05: Direction to Proceed

It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

Section 1104.06: Parallel Parking

Except where angle parking is specifically allowed and indicated by curb marking or signposting, or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel

with, and within twelve (12) inches of, the right-hand curb, and where there is no curb, as far to the right as possible; and it is unlawful to park in violation of this section.

Section 1104.07: Impounding and Removing Vehicles

When any Sheriff's Deputy finds a vehicle upon a street in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Ordinance. When any police officer finds a vehicle unattended upon any street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof, and to remove the same to a garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist there-with, the same shall be paid prior to removal from such place of storage or safekeeping.

Section 1104.08: Narrow Street Parking

It is unlawful to stop, park or leave standing, any motor vehicle or trailer across from another motor vehicle or trailer so parked on any narrow street in the Town, such that would hinder the flow of traffic.

Section 1104.09: Handicap Parking

Statutory parking privileges for physically handicapped shall be strictly observed and enforced.

Section 1104.10: Parking of Items Other Than Vehicles

Except as may be needed on a temporary basis only, to conduct and complete short-term work upon a property within the Town, it shall be unlawful to park any trailer, RV, school bus, boat, equipment or the like on any road or road right-of-way within the Town.

Section 1104.11: Road Defined

A road is defined as any street, road, avenue, alley or other public way.

Section 1104.12 Violations

A violation of this Ordinance shall be considered a petty misdemeanor.

Exhibit A

May Township Specific Parking Prohibition Designations; “No Parking Zones”

Arcola Trail - Both sides of the roadway from the RR trestle north to the driveway for 12191 Arcola Trail, approximately 1,300 feet from the trestle

120th Street - East of Norell, both sides of the roadway, beginning at Norell and east past the east boundary of the wetland, approximately 1,100 feet from Norell.

120th Street - West of Norell, both sides of the roadway, beginning at Norell and west to Meyeron Road

176th Street - West of Manning, both sides of the roadway, beginning at Manning and west to the driveway for 10855 176th Street, approximately 260 feet from Manning

Township Roads around Big Carnelian Lake in locations where posted: **130th Street;**
130th Street Lane; Panorama Avenue (Amended by Ord. 2014-08A, Effective 11/22/14)

Chapter 12

VEHICLE REGULATIONS

ARTICLE 1201: ADOPTION OF VEHICLE REGULATIONS

Section 1201.01: Regulation of Operation

Minnesota Statutes, Chapter 169 known as Highway Traffic Regulation and as amended by the laws of 1992 is hereby adopted by the Town of May, Washington County, Minnesota. Every provision contained in the said statute is hereby adopted and made a part of this Article by reference as if fully set forth herein.

Section 1201.02: Scope

- A. The provision of this Article relating to operation of vehicles refer to streets and highways within the Town of May, Washington County, Minnesota.
- B. It is unlawful and a misdemeanor for any person to do any act forbidden or fail to perform any act required in this Article.
- C. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

ARTICLE 1202: RECREATIONAL MOTOR VEHICLES

Section 1202.01: Definition

- (1) Recreational Motor Vehicle. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to a trail bike or other all-terrain vehicle, hovercraft, snowmobile, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

Section 1202.02: Prohibited Areas and Acts

It is unlawful for any person to operate a recreational motor vehicle:

- A. On private property of another without specific written permission of the owner of said property. Such written permission, or a copy thereof, must be carried on the person of anyone operating a recreational motor vehicle on the private property of another.
- B. On publicly owned land including school grounds, park property, playgrounds, recreation areas and golf courses, except where permitted by this Article.
- C. In a manner so as to create a loud, unnecessary, or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.
- D. On a public sidewalk or walkway provided or used for pedestrian travel.
- E. At any place while under the influence of intoxicating liquor or narcotics or habit forming drugs.
- F. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
- G. At any place in a careless, reckless, or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto.
- H. On any public street, highway, or right-of-way, unless licensed pursuant to Minnesota law.
- I. To intentionally drive, chase, run over, or kill any animal, wild or domestic.
- J. To operate or halt any recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others, in a manner so as to endanger or be likely to endanger any person or property or in excess of 25 miles per hour on publicly owned land.

- K. Within 150 yards of any public recreational area or gathering of people. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it.

Section 1202.03: Violation Provision

- A. Violations. The violation of any provision of this Code or the violation of the conditions or provisions of any permit issued pursuant to this Code shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine, imprisonment or both; plus in either case, the cost of prosecution.
- B. Penalties. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues, shall constitute a separate offense.
- C. Application to Town Personnel. The failure of any officer or employee of the Town to perform any official duty imposed by this Code shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
- D. Equitable Release. In the event of a violation or the threatened violation of any provision of this Code or any provision or condition of a permit issued pursuant to this Code, the Town, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.

FEES AND DEPOSITS

ARTICLE 1301: FEES AND DEPOSITS FOR APPLICATION

Section 1301.01: General Requirements

At the time of filing an application for rezoning, variance, special use permit, conditional use permit, utility permit, grading permit, farm site plan permit, drainage site plan approval, driveway permit, major subdivision, or minor subdivision builder escrow, the applicant shall pay to the Town an amount of money sufficient to cover the Town's administrative and other costs incurred in the processing of the application, and inspecting any work authorized by the Town for compliance with permit conditions or legal requirements.

Section 1301.02: Deposit

The Town may require the applicant to deposit at the time the application is filed an amount of money sufficient to pay the costs of public notices, materials and staff consultant time and research for preparation of materials necessary to the processing of each application in addition to the application fee. At the time of filing of the application, the applicant shall be furnished an estimate of the amount of money necessary for deposit; and the applicant shall deposit such amount with the Town Clerk. Additional deposits shall be paid whenever the Zoning Administrator or Town Clerk determines the costs will exceed those initially estimated. No action on the application shall be taken by the Town until all fees and deposits are paid as required.

Whenever unpaid expenses incurred by the Town become delinquent, the amount due shall be certified to the County Auditor for inclusion with the following year's tax statement.

In addition to all unpaid expenses incurred by the Town, the owner or user of the real estate making application shall be liable for interest upon all unpaid balances at the rate of twelve percent (12%) per annum.

Section 1301.03: Completion

Any amount of the deposit not expended or encumbered shall be refunded to the applicant within sixty (60) days after all bills associated with the application are paid by the Town. If any application is withdrawn or denied, any part of the deposit not expended or encumbered shall be refunded to the applicant within sixty (60) days after all bills associated with the application are paid by the Town.

Section 1301.04: Issuance

No permit shall be issued until all costs as provided herein have been paid.

Section 1301.05: Fee Schedule

Fees are established by the Town Board and appear below:

| <u>CODE CITE</u> | <u>PURPOSE</u> | <u>FEES</u> |
|------------------|---|---------------|
| 302.01 E | Town Road Protection Escrow | |
| | Gravel Roads | \$ 500 |
| | Blacktop Roads | 1,000 |
| 303.04 | Driveway Permit | 50 |
| 310.07 C | Outdoor Wood Boiler (OWB) Permit | 40 |
| 311.09 | Certificate of Compliance | 75 |
| 304.01 | Moving a Structure CUP Application Fee | 100 |
| | Escrow (escrow subject to Town Engineer’s review) | Minimum 2,000 |
| 401.05 | Mining IUP Application Fee | 100 |
| 401.18 | Escrow | 4,500 |
| 402.05 A | Small Business IUP Application Fee | 100 |
| 402.05 B | Escrow | 1,200 |
| 402.06 B | Permits – Annual Renewal | |
| | Small Business (other than kennels) | 25 |
| | Small Business Kennels | 500 |
| | Private Kennels | 25 |
| | Mining | 500 |
| | Non-Profit Organizations | 500 |
| | Cell Towers | 150 |
| | OWBs | 15 |
| 501.13 | Animal Control Warning | 25 |
| | Animal Impoundment and Redemption Fees | |
| | First Offense | 50 |
| | Second Offense | 100 |
| | Third and Subsequent Offense | 150 |
| 501.14 | Private Kennel Application Fee | 100 |
| | Escrow | 100 |
| 502.03 | Wild Animals CUP Application Fee | 100 |
| | Escrow | 2,000 |
| 503.03 | Burning Permits | 0 |
| 509 | 201 Sewer Hook-up (Administrative and 201 Fund | |
| 510 | Contribution Fee Only, does not cover cost of connection) | 2,600 |

| <u>CODE CITE</u> | <u>PURPOSE</u> | <u>FEES</u> |
|----------------------------|--|-------------|
| 602.05 A | Utilities – Option 1: Construction Escrow To be replenished when it drops to \$1,000.00 | Cash 5,000 |
| | Utilities – Option 2: Perpetual Construction Bond Utility will be billed; pay as you go | Bond 5,000 |
| 602.12 E | License Fee – Utilities (Engineer’s review taken out of escrow) | 0 |
| 603.07 B | Removal Bond – Communication Tower | 25,000 |
| 704.03 A | Variance Application Fee | 100 |
| | Escrow | 850 |
| 704.04 B | CUP/IUP Application Fee | 100 |
| | Escrow – “Major” CUP/IUP (e.g. non-profit organizations, wild animals, utility substations) | 2,000 |
| | Escrow – Cell Tower | 8,000 |
| | Escrow – “Minor” CUP/IUP (e.g. small business, WECS, mobile home or other temporary residence, infirm housing) | 1,200 |
| | Escrow – Private Kennel | 100 |
| 705.13 | Grading Permit | |
| | Minor (issued by Building Official) | 50 |
| | Major (issued by Engineer, add’l escrow may be needed) | 200 |
| 901.04.14 | Subdivision Application Fee | 100 |
| 901.04.16 and 901.06.01 | Concept Review Application Fee | 0 |
| | Escrow Minor Subdivision (fewer than four parcels) | 500 |
| | Escrow Major Subdivision (four or more parcels) | 750 |
| | Subdivision Application Review | |
| | Escrow Minor Subdivision ¹ | 1,500 |
| | Escrow Major Subdivision ¹ | 12,000 |
| | (¹ Less any amounts paid for concept review) | |
| | Site Construction Escrow – 125% of Town Engineer’s estimated cost | |
| | Road Vacation Application Fee | 100 |
| | Escrow | 900 |
| | Amendment to an existing CUP/IUP: Application Fee | 100 |
| | Escrow: One-half (1/2) the escrow of an initial application as stated herein | |
| | Amendment to the Town’s Comprehensive Plan or Code | |
| | Application Fee | 100 |
| | Escrow Comp Plan Amendment (map or text) | 1,000 |
| | Escrow Code Amendment (text) | 750 |

| <u>CODE CITE</u> | <u>PURPOSE</u> | <u>FEES</u> |
|------------------|----------------------------|-------------|
| 901.04.08 | Lot Line Adjustment Escrow | 400 |
| 1004.01.B | Sign Permit Fee | 35 |

POLICY FEES

| | |
|--|----------------------------|
| CLERK and TREASURERS' TIME that is charged back to escrows or for requests for information requiring in excess of one-half (1/2) hour (request form must be filed with the Town Clerk) | \$30/hour |
| COPY OF TOWN CODE | 50/copy |
| COPY OF COMPREHENSIVE PLAN: Bound Version | 60/copy |
| CD Version | 10/copy |
| “SUBSCRIPTION” TO TOWN BOARD AND PLANNING COMMISSION MINUTES (JANUARY – DECEMBER) | 40/year |
| COPIES OF PUBLIC DOCUMENTS | 0.25/page |
| ASSESSMENT SEARCHES | 15/parcel |
| PARK FEES when property is subdivided | 800/lot |
| GRADER AND OPERATOR | 75/hour |
| ROAD CREW (same as the County) | Hourly rate + 50% benefits |

Section 1301.05 amended effective June 12, 2002, December 11, 2002, June 7, 2006, August 10, 2009, August 28, 2010, February 9, 2011, April 27, 2011, February 16, 2012, and April 3, 2015 by amending ordinances: 2002-03, 2002-06, 2006-09, 2009-03, 2010-02, 2011-01, 2011-03 and 2012-01, 2014-03, respectively.

TOWN of MAY
WASHINGTON COUNTY, MINNESOTA

Ordinance No. 2021-07

AN ORDINANCE REGARDING PARK AND OTHER USES WITHIN THE RURAL
RESIDENTIAL & AGRICULTURAL ZONING DISTRICTS

Section 1. Findings.

WHEREAS, the Town of May adopts zoning regulations to protect the health, welfare, safety, and character of the Town; and

WHEREAS, the Town Board seeks to align uses allowed within the RR, Rural Residential District with the policies of the Comprehensive Plan.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF MAY, WASHINGTON COUNTY, MINNESOTA DOES ORDAIN:

Section 2. Code Amended. Section 708.01.A is hereby amended to read as follows:

A. Permitted Uses. The following uses are permitted in the Agricultural District:

Agriculture
Single Family Detached Residential Dwellings

Section 3. Code Amended. Section 708.02.A is hereby amended to read as follows:

A. Permitted Uses. The following uses are permitted in the Rural Residential District:

Agriculture
Single Family Detached Residential Dwellings

Section 4. Code Amended. Section 708.01.C (list of Accessory Uses in the AG District) is hereby amended to include the following:

Keeping of Animals, Domestic Farm or Domestic Pets

Section 5. Code Amended. Section 708.02.C (list of Accessory Uses in the RR District) is hereby amended to include the following:

Keeping of Animals, Domestic Farm or Domestic Pets

Section 6. Code Amended. Section 708.01.D (list of Conditional Uses in the AG District) is hereby amended to include the following uses:

Nursery – Commercial Wholesale (Production of Trees and Shrubs)
Wildlife Reserves, Public or Private

Section 7. Code Amended. Section 708.02.D (list of Conditional Uses in the RR District) is hereby amended to include the following uses:

Parks
Wildlife Reserves, Public or Private

Section 8. Code Deleted. Sections 901.13.02.H and 901.15.09 are hereby deleted.

Section 9. Code Amended. Section 901.14.05.E is hereby amended to read as follows:

E. Densities and Bonuses. The density for an Open Space Design development shall be determined by a lot yield calculation as defined in Section 901.12 of this Chapter. To encourage Open Space Design, a density bonus not to exceed 25% of the lots defined by the yield plan may apply, if the application meets all criteria of an Open Space Design as stated herein.

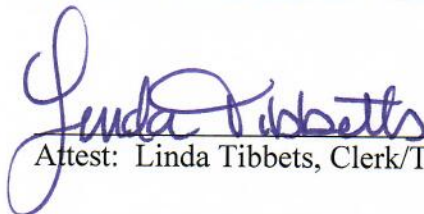
Section 10. Effective Date.


This ordinance shall be in full force and effect from and after its passage and publication according to law.

Section 11. Severability.

If any part of this ordinance is held invalid by a court of competent jurisdiction, this shall not invalidate any other section, provision or part thereof.

BY VOTE OF THE TOWN BOARD: ADAMS YES, MAGNER YES, PAZLAR YES, THIS ORDINANCE IS ADOPTED / NOT ADOPTED BY THE BOARD OF SUPERVISORS OF THE TOWN OF MAY THIS 5th DAY OF AUGUST, 2021.


Attest: Linda Tibbetts, Clerk/Treasurer


John Adams, Chair

