

# Watonwan County, Minnesota

## Zoning Ordinance

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# **Zoning Ordinance of Watonwan County, Minnesota**

An Ordinance for the Purpose of Promoting Health, Safety, Order, Convenience and General Welfare by Regulating the Use of Land, the Location and the Use of Buildings and the Arrangement of Buildings on Lots, and the Density of Populations, and the Division of the County into Districts for the Orderly Future Development of the Area of Watonwan County, Minnesota or Parts thereof Outside the Incorporated Limits of the Municipalities.

The Watonwan County, Minnesota Board of Commissioners Does Ordain:

## **Section 1 - Short Title**

This Ordinance shall be known, cited and referred to as the "Watonwan County Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance."

## **Section 2 - Intent and Purpose**

This Ordinance is adopted for the purpose of:

protecting the public health, safety, comfort, convenience and general welfare;

dividing the unincorporated portions of the County into Zones and Districts regulating therein the location, construction, reconstruction, alteration and use of structures and land;

promoting orderly development of the residential, business, industrial, recreational and public areas;

providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of structures in relationship to surrounding properties;

limiting congestion in the public right-of-way;

providing for the administration of this Ordinance and defining the powers and duties of the administering officer as provided hereinafter;

prescribing penalties for the violation of the provisions in this Ordinance or any amendment thereof; and

site specific acts to allow zoning.

### **Section 3 - Jurisdiction, Scope and Interpretation**

#### **A. Jurisdiction**

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

#### **B. Scope**

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

#### **C. Interpretation**

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

#### **D. Lots of Record**

All lots which are a part of a subdivision legally recorded with the County Recorder, and lot or lots described by metes and bounds, the deed to which has been recorded in the office of the County Recorder prior to the passage of this Ordinance shall be considered to be Lots of Record.

All lots of record, as of the effective date of enactment of this Ordinance, which have been developed and are in use as residential dwellings, either farm or non-farm dwellings, shall be allowed to continue and shall be considered a legally buildable lot, even though such lot or lots may not conform to the minimum requirements of this Ordinance. Any buildings on said existing lots which are destroyed or damaged by fire, explosion or natural disaster to the extent of more than fifty percent (50%) of its value may be restored and rebuilt as designated by the County Board.

All lots of record, as of the effective date of enactment of this Ordinance, which have not been developed and which are not in use as residential dwellings, either farm or non-farm dwellings shall be considered substandard lots and cannot be built upon nor used for residential dwellings, either farm or non-farm dwellings.

Substandard Lots of Record in the Shoreland District shall be considered buildable when the lot is in separate ownership from abutting lands.

**E. Injunctive Relief**

The County Attorney shall have the authority to petition the County Court for injunctive relief against continual violations of any of the provisions of this Ordinance.



## Section 4 - Rules and Definitions

### A. Rules

#### 1. Interpretation of Terminology

- a. For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.
- b. The word “person” shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- c. The word “shall” is mandatory and not discretionary.
- d. The word “may” is permissive.
- e. The word “lot” shall include the word “plot”, “piece”, and “parcel”.
- f. The words “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.

#### 2. Permitted Uses

Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the Districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted hereinafter in the Zoning District in which such a building, structure or land shall be located, except for the following exceptions:

- a. Uses lawfully established prior to the effective date of this Ordinance.
- b. Conditional uses allowed in accordance with Paragraph 3 of this Section.
- c. Essential services erected, constructed, altered or maintained by public utilities or by governmental departments or commissions, subject only to the permit requirements of Section 21.

#### 3. Conditional Uses

Conditional uses of land or buildings, as hereinafter listed, may be allowed in the Districts indicated, subject to the issuance of Conditional Use Permits, in accordance with the provisions of Section 13. Whenever a conditional use is

named as a major category, it shall be deemed to include all and only those itemized uses listed.

## **B. Definitions**

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

1. "Accessory Building" means a subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.
2. "Agriculture" means the art or science of cultivating the soil and activities incidental thereto: the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming. The term shall include incidental retail selling by the producer or products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.
3. "Automobile Repair, Major" means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting service.
4. "Automobile Repair, Minor" means the replacement of any part or 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.
5. "Auto/Salvage Yard " means land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to scrap metal, rags, paper rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles, provided further, that the storage of five (5) or more inoperative or unlicensed motor vehicles for a period in excess of three (3) months shall also be considered a junk yard.
6. "Basement" means a portion of a building located partly underground. A basement shall be counted as a story if it has one-half (1/2) or more of its height above the highest level of the adjoining ground and/or if it is intended to be used for dwelling or business purposes.
7. "Block" means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.
8. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (An area with an average slope of less than eighteen percent

(18%) over a distance of fifty (50) feet or more shall not be considered part of the bluff.):

- Part or all of the feature is located in a Shoreland area;
  - The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody;
  - The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty percent (30%) or greater; and
  - The slope must drain toward the waterbody.
9. “Bluff Impact Zone” means a bluff and land located within twenty (20) feet from the top of a bluff.
10. “Board of County Commissioners” means the Watonwan County Board of County Commissioners.
11. “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.
12. “Building” means any structure for the shelter, support or enclosure of persons, animals, chattel or property of an kind; and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
13. “Building, Agriculture” means all buildings, other than dwellings, which are incidental to a farming operation.
14. “Building Line” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
15. “Building Permit” means a document issued by the Office of the Zoning Administrator to permit construction or the establishment of, but not limited to, all buildings, building additions, structures, towers, basements, farm and wildlife ponds, earth excavations, shoreland repairs, sewer systems, repair of sewer systems, mobile homes, trailer houses, all farm buildings, grain bins, corn cribs, silos, feed rooms, milk rooms, etc.
16. “Campground” means an area of property used on a daily, nightly or weekly basis upon which a tent, pickup camper, motor home, pop-up camper, trailer made for camping where proper sanitation facilities and spacing of camp units are provided and maintained.

17. "Club or Lodge" means a club or lodge that is a non-profit association of persons who are bonafide members paying annual dues, use of premises being restricted to members and their guests
18. "Cluster Development" means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.
19. "Commercial Planned Unit Development" means a use that typically provides transient, short-term lodging spaces, rooms, or parcels and operations that are essentially service oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service oriented activities are commercial planned unit developments.
20. "Commercial Use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods and services.
21. "Community Water and Sewer Systems" means utilities systems serving a group of buildings, lots, or an area of the County with the design and construction of such utility systems as approved by the County Engineering Department and the State of Minnesota.
22. "Commissioner" means the Minnesota Commissioner of Natural Resources.
23. "Conditional Use" means a use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land of the public desirability for the particular use at the particular location, a "Conditional Use Permit" may or may not be granted. If granted, the Planning Commission and/or County Board may attach conditions and guarantees upon the "Conditional Use Permit" deemed necessary for the protection of the public interests.
24. "Corner Lot" means a lot situated at the junction of and fronting on two or more roads or highways.
25. "Country Club" means a golf club equipped with a golf course and a club house.
26. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.
27. "Depth of Lot" means the mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner is its depth, and its lesser frontage is its width.

28. “Duplex, triplex, and quad” means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
29. “District” means a section of the County for which the regulations governing the height, area, use of buildings, and premises are the same.
30. “Dwelling” means structure or portion of a structure, or other shelter designed as short-or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
31. “Dwelling, Single Family Detached” means a dwelling structure designed for or occupied exclusively by one (1) family, not attached to another dwelling, set on a permanent masonry or concrete foundation extending below frost level, with a minimum of seven hundred sixty (760) square feet of floor area on the ground floor and surrounded by open space on the same lot.
32. “Dwelling, Multiple” means a dwelling designed for or occupied by two (2) or more families.
33. “Dwelling, Non-Farm” means a dwelling not connected with a farming operation.
34. “Dwelling Site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
35. “Easement” means a grant by a property owner for the use of a strip of land for the purpose of construction and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
36. “Equal Degree of Encroachment” means a method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.
37. “Essential Services” means overhead or underground electrical, gas, steam or water transmission or distribution systems and structures; or collection, communication, supply or disposal systems and structures, used by public utilities or governmental departments or commissions; or as are required for protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Ordinance, the word “Building” does not include “structures” for essential services.

38. "Extraction Pit" means any artificial excavation of the earth exceeding fifty (50) square feet of surface area of at least two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone or other natural matter; or made by turning, or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation.
39. "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.
40. "Family" means any number of individuals living together, related by blood, on the premises, or a single housekeeping unit, housing not more than four (4) people, as distinguished from a group occupying a boarding house, lodging house or hotel.
41. "Farm" means a tract of land thirty-five (35) acres or more in size, which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farm may include a farm dwelling and accessory buildings and structures necessary to the operation of the farm.
42. "Farm, Hobby" means an area used as a limited farm operation where the income from the farm is incidental to the property.
43. "Farm, Split" means the process by which an existing farm is severed into two (2) parcels, one of which contains only the buildings and adjacent land, and also consists of a minimum of 2 ½ acres.
44. "Farming" means the cultivation of the soil and all activities incidental thereto; agriculture.
45. "Farmland" means any land used in conjunction with a farming operation.
46. "Farmstead" means property on which structures and a farm dwelling are located for management, storage, livestock, etc., for a farm operation.
47. "Feedlot, Agricultural" means an enclosure for the purpose of feeding poultry or livestock, an accessory use incidental to a farming operation and/or where the natural vegetation is not maintained.
48. "Final Plat" means a drawing or map of a subdivision, meeting all the requirements of the County and in such form as required by the County for purposes of recording.

49. "Flood" means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
50. "Flood Area" means the sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory building.
51. "Flood Fringe" means that portion of the flood plain outside of the floodway.
52. "Flood Plain" means those areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within Watonwan County shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.
53. "Flood Proofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
54. "Floodway" means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
55. "Forest Land Conversion" means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
56. "Fur Farm" means an area used for keeping and/or raising fur bearing animals.
57. "Garage, Private" means a detached or attached accessory building or carport which is used primarily for storing passenger vehicles, trailers or one (1) truck of a rated capacity of 9,000 pounds gross weight or less.
58. "Garage, Public" means any premises, except those described as a private garage, used for the storage or care of power driven vehicles or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sales.
59. "Guest Cottage" means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot and is used for temporary housing of occasional guests overnight.
60. "Hardship" means the same as that term is defined in Minnesota Statutes, Chapter 394.
61. "Health Authority" means the Environmental Health, Sanitation, County Zoning and Solid Waste Officer or their authorized representative.

62. "Height of Building" means the vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
63. "Highway" means any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Watonwan County numerical route designation.
64. "Home Occupation" means any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling place and which does not change the character thereof or have any exterior evidence of such secondary use.
65. "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
66. "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
67. "Livestock Waste Lagoon" means a diked enclosure for disposal of livestock wastes by natural processes.
68. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
69. "Lot Area" means the land area within the lot lines.
70. "Lot Area Per Family" means the area per family is the lot area required by this Ordinance to be provided for each family in a dwelling.
71. "Lot, Corner" means a lot situated at the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
72. "Lot Depth" means the mean horizontal distance between the mean front road and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
73. "Lot, Double Frontage" means an interior lot having frontage on two streets.
74. "Lot, Interior" means a lot other than a corner lot.



75. "Lot Line, Front" means that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street except that a corner lot in a nonresidential area shall be deemed to have frontage on both streets.
76. "Lot Lines" mean the lines bounding a lot, as defined herein. When a lot line abuts a road, street, avenue, park or other public property, except an alley, such line shall be known as a street line; and when a lot line abuts an alley, it shall be known as an alley line.
77. "Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.
78. "Manufactured Home" means a factory built single or double structure equipped with the necessary service connections and structured so as to be readily movable to be relocated and without permanent foundation.
79. "Metes and Bounds" mean a method of property description by means of their direction and distance from an easily identifiable point.
80. "Mining" means the extraction of sand, gravel, rock, soil, or other material from the land in the amount of four hundred (400) cubic yards or more and the removal thereof from the site. The only exclusion from this definition should be removal of minerals associated with the nominal construction of a building.
81. "Modular Home" means a non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one (1) family dwelling.
82. "Motel" means a building or group of buildings used primarily for the temporary residence of motorists or travelers.
83. "Motor Home" means a recreational vehicle used for short term travel and may be equipped with the necessary service connections.
84. "Nonconforming Use" means a use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.
85. "Non-Farm Dwelling" (SEE Dwelling)
86. "Noxious Matter or Materials" means material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well-being of individuals.

87. “Nuisance” means annoyance, anything which causes injury, inconvenience, or damage, or which essentially interferes with the enjoyment of life or property, and shall include inadequate or unsanitary sewage or plumbing facilities or other unsanitary conditions.
88. “Obstruction” means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
89. “Ordinary High Water Level” means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
90. “Persons” means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee or other similar representative thereof.
91. “Planned Unit Development” means the grouping of land parcels for development as an integrated, coordinated unit in a manner which emphasizes flexibility of design of land under single or unified ownership and developed with community or public sewer and water systems and through clustering of buildings or activities, according to a development plan agreed upon by the County and the developer and applicable State agencies.
92. “Planning Advisory Commission” means the duly appointed Planning Advisory Commission of Watonwan County; and also referred to as “Planning Commission”, “Commission”, and “PAC”.
93. “Plot” means a tract, other than one (1) unit, of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings, and having a frontage on a public road or highway or upon a traveled or used road, and including as a minimum such open spaces as required under this Ordinance.
94. “Preliminary Plat” means a tentative drawing or map of a proposed subdivision, meeting the requirements herein enumerated.

95. "Premises" means a lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this Ordinance.
96. "Public Nuisance" means any condition which is generally objectionable to people in the direct area and as regulated in Section 12, Subdivision J of this Ordinance.
97. "Public Water" means any waters as defined in Minnesota Statutes, Section 103G.005, Subdivision 15.
98. "Reach" means a hydraulic engineering term to describe longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.
99. "Recreation Equipment" means play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar apparatus but not including tree houses, swimming pools, playhouses exceeding twenty-five (25) square feet of floor area, or sheds utilized for storage of equipment.
100. "Recreational Vehicle Campground" means any area used on a daily, nightly or weekly basis for the accommodation of five (5) or more occupied tents, expandable camp trailers, travel trailers, motor homes and converted buses or trucks; whether privately or publicly owned; and whether use of such accommodation is granted free of charge or for compensation. No manufactured homes shall be allowed in campgrounds.
101. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" as used in the Flood Insurance Rate Map.
102. "Regulatory Flood Protection Elevation" means an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
103. "Road" means a public or private right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.
104. "Sanitary Facilities" means toilets, lavatories, showers, urinals, drinking fountains, and the service building or room provided for the installation and use of these units.

105. "Semipublic Use" means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
106. "Sensitive Resource Management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
107. "Setback" means the minimum horizontal distance between a building and a highway right-of-way or road right-of-way, side property line, high water mark of a lake or a stream, sewage treatment system, top of bluff, or other facility in order to comply with the requirements set forth in the Watonwan County Zoning Ordinance.
108. "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 12 of this Ordinance.
109. "Sewer System" means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
110. "Shore Impact Zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.
111. "Shoreland" means the land located within the following distances from public waters (a) 1,000 feet from the normal high water mark of a lake, pond or flowage; (b) 300 feet from a river or stream or the landward extent of a flood plain designated by this Ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
112. "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
113. "Sign" means a name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or

land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

114. "Sign, Advertising" means a sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; a billboard.
115. "Sign, Business" means a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered on the premises where such sign is located.
116. "Sign, Flashing" means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
117. "Sign, Pylon" means a free standing sign erected upon a single pylon or pose which is in excess of ten (10) feet in height with the sign mounted on the top thereof.
118. "Sign, Rotating" means a sign which revolves or rotates on its axis by mechanical means.
119. "Sign, Surface of" means the entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one (1) side of a double-faced V-type sign structure shall be used in computing total surface area.
120. "Sign, Temporary" means a sign allowed for a period of ninety (90) days or less.
121. "Steep Slope" means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
122. "Story" means that portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between the floor and the ceiling next above it.
123. "Story, Half" means that portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story.

124. "Street" means a public right-of-way which affords the primary means of access to abutting property.
125. "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.
126. "Structure, Nonconforming" means a structure which is legally existing upon the effective date of this Ordinance which would not conform to the applicable regulations if the structure were to be erected under the provisions of this Ordinance.
127. "Structure, Alterations" means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
128. "Subdivision" means a described tract of land which is to be or has been divided into one (1) or more lots or parcels or the division of a lot, tract or parcel of land into one (1) or more lots, tracts or parcels, none of which are greater than five (5) acres in area (exclusive of road right-of-way) or greater than three hundred (300) feet in width, for the purpose of transferring ownership or building development; or if a new street is involved, any division or development of a parcel of land. The term shall include resubdivision of land; provided, however, that the sale or exchange of small parcels of platted land to or between adjoining property owners shall not be considered as a subdivision, and provided the remaining acreage is not less than the minimum requirements of the appropriate zoning district. Existing farmsteads shall be exempt from platting requirements if the land so divided is intended for agricultural use. If the land is intended for residential use, all platting requirements shall be adhered to.
129. "Subdivision Ordinance" means a separate set of regulations covering Subdivisions.
130. "Substandard Shoreland Use" means any use of shoreland existing prior to the date of enactment of any County ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks or other dimensional standards of the ordinance.
131. "Surface Water Oriented Commercial Use" means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
132. "Toe of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen percent (18%).

133. “Top of the Bluff” means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen percent (18%).
134. “Travel Trailer” means a vehicle without motor power used or adaptable for living, sleeping, business or storage purposes, having no foundation other than wheels, block, jacks, houses or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term “trailer” shall include camp car, camp bus, camper and house car. A permanent foundation shall not change the character unless the entire structure is erected in accordance with the approved Building Code.
135. “Unincorporated Area” means the area outside a city.
136. “Use” means the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.
137. “Use, Accessory” means a use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.
138. “Use, Permitted” means a use which conforms with the requirements of the zoning district within which it is located.
139. “Use, Principal” means the primary use of the land or structures as distinguished from accessory uses.
140. “Variance” means the same as that term is defined or described in Minnesota Statutes, Chapter 394.
141. “Water Oriented Accessory Structure or Facility” means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boat houses, gazebos, screen houses, fish houses, pump houses, and detached decks.
142. “Wetland” means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).
143. “Yard” means any space in the same lot with a building, open and unobstructed from the ground to the sky.

144. "Yard, Front" means a yard extending across the front of the lot between the side yard lines and lying between the right-of-way of the road or highway and the nearest line of the building.
145. "Yard, Rear" means an open space unoccupied except for accessory buildings or the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.
146. "Yard, Side" means an open, unoccupied space on the same lot with a building, between the building and the side line of the lot and extending from the front lot line to the rear of the back yard.



## Section 5 - Classification of Districts and District General Provisions

### A. Districts

For the purpose of this Ordinance, Watonwan County is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

1. Agricultural District “A”
2. Rural Residential District “R-1”
3. General Business District “B”
4. General Industry District “I”

### B. Overlay Zoning District

The following overlay districts are also made a part of the Zoning Ordinance on property where both the Zoning District and the Overlay District would apply. The use or development of such property shall comply with both districts. The following symbols and names shall represent Watonwan County’s Overlay Districts:

<u>Symbol</u>	<u>Name</u>
SH	Shoreland District
FP	Flood Plain District

#### 1. Shoreland Classification System

The public waters of Watonwan County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Watonwan County, Minnesota.

##### a. Protected Basins:

<u>PWI ID</u>	<u>PWI Name</u>	<u>Alternate Name</u>	<u>Shoreland Class</u>
17-0001	Unnamed		NE
83-0005	Unnamed	Siegs Slough	NE
83-0010	Case		NE
83-0014	Johnson’s Marsh		NE
83-0019	School	Wilson	NE
83-0020	Bergdahl		NE
83-0021	Fedji		NE

83-0032	Unnamed		NE
83-0033	Bullhead		NE
83-0035	Mary		NE
83-0036	Kansas		RD
83-0037	Unnamed		NE
83-0040	Long		RD
83-0042	Unnamed		NE
83-0043	St. James		RD
83-0049	Mulligan Marsh	Mulligan's Marsh	NE
83-0050	Mud		NE
83-0051	Sulem		NE
83-0053	School		NE
83-0054	Irish		NE
83-0055	Ewy		NE
83-0056	Butterfield		NE
83-0058	Cottonwood		NE
83-0060	Wood		NE

NE = Natural Environment

RD = Recreational Development

b. Protected Watercourses:

Agricultural Rivers

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Watonwan River	31	107	33	36	107	30
North Fork Watonwan River (NFWR)	7	107	33	14	107	32
			Confluence with Watonwan R. in			
South Fork Watonwan River (SFWR)	19	105	33	34	105	33
			Confluence with Watonwan R. in			
SFWR also	35	105	33	29	107	30

c: Tributary:

This classification applies to all remaining non-classified protected watercourses in Watonwan County as shown on the Protected Waters Inventory Map, a copy which is hereby adopted by reference.

**C. Zoning Map**

The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning maps, and said maps are hereby made a part of this Ordinance. Said maps shall be known as the “County Zoning Maps.” Said maps, consisting of sheets and all notations, references and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain said maps and amendments thereto shall be recorded on said Zoning Maps within forty-five (45) days after official adoption and publication of such amendments. The official Zoning Maps shall be kept on file in the Zoning Administrator’s office.

**D. General District Provisions**

1. Soils Data

The following may be required on all site plans which are submitted to the Watonwan County Planning Commission in conjunction with requirements set forth in this Ordinance.

Soil types and the characteristics and recommendations of those types in relation to the intended use, as stated in any applicable soil survey prepared for Watonwan County or any individual soil surveys compiled by the United States Department of Agricultural or Soil Conservation Service shall be utilized in evaluating proposed uses and on-site systems.

2. District Boundaries

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

3. Future Detachment

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

4. Uses Not Provided for in Zoning Districts

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

5. Appeals as to District Boundaries

Appeals from any administrative officer's determination of the exact location of district boundary lines shall be heard by the Board of Adjustment for a judgment as to the location of the district boundaries. A judgment by the Commissioner of Natural Resources may also be sought in the event that agreement relative to precise location of shoreland and flood plain district boundaries cannot be obtained.

6. Conditional Uses

Conditional uses require a Conditional Use Permit based on the procedures set forth in Section 13 of this Ordinance. Only those uses specified as Conditional Uses in each district shall be allowed unless a determination is made by the County Board that a request for a use differing from those allowed is reasonably related to the uses specified for the district and is also related to the overall needs of the County.

7. Dwelling Unit Restrictions

- a. No dwelling unit shall be less than twenty (20) feet in width at its narrowest side in any district except as provided for in the "A" District with the granting of a Conditional Use Permit for the placement of a second dwelling on an established farm.
- b. All manufactured homes shall be subject to and meet the construction, plumbing, electrical, and mechanical standards as prescribed by the State of Minnesota, U.S. Department of Housing and Urban Development, and the American National Standards Institute identified as ANSI A119.1 or the provision of the National Fire Protection Association identified as NFPA 01B and any revisions thereto and shall be certified to these standards by a seal affixed to the manufactured home.

8. Lot Size Requirements

Lot size requirements are specified under each zoning district. In addition, the following regulations shall be complied with:

- a. No use shall be established or hereinafter maintained on a lot recorded after the effective date of this Ordinance which is of less area or width than that prescribed for the Zoning District in which it is to be located.
- b. In areas not served by public water and sewer systems, all on-site facilities shall be required to conform to MPCA 7080 rules and Section 12 - Subdivision L of this Ordinance which address size, design, and location of systems.
- c. Where a proposed plat is submitted incorporating an extensive park area as an integral part of the subdivision, minimum lot area, frontage and width requirements for the district in which the plat is located may be reduced subject to conditions and approval of plans by the County Board. Land area taken from individual lots to create the park must be over and above the percent of total land area required for park purposes under the subdivision regulations.
- d. Single family homes may be excluded from lot area and setback requirements provided a Conditional Use Permit is issued under terms of a "planned development." Density zoning shall be interpreted to mean the permission of reduced lot area standards under conditions whereby the number of dwelling units permitted is not greater than permitted by the application of the regular provision of the district but with all land excluded from the lot area requirements added onto public open space.
- e. Public rights-of-way are not a part of the buildable lot area and therefore shall not be included as part of the minimum lot area required.
- f. In all districts, any split or conveyance of lands of 10 acres or less shall be accompanied by a certified survey of said lands unless the said lands were a separate parcel on the date of adoption of this ordinance. The parcel(s) created must consist of 10 acres in the same section. This is intended to include newly created, stand-alone parcels and land added to existing parcels. All such splits and conveyances should be approved by the Land Management office before being submitted for recording.

## 9. Yard Requirements

- a. Yard requirements are set forth under each Zoning District. In addition, the following requirements shall be complied with:

1. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space or minimum lot area requirements for any other building.
  2. On a 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 and ten (2 ½ and 10) feet of the intersecting right-of-way lines nor within forty (40) feet of the intersecting right-of-way lines, except agricultural crops.
  3. Agricultural stacks or bales such as corn, hay, straw or the like must be placed one hundred (100) feet or more from the right-of-way of any Township, County or State road or highway. If placed less than one hundred (100) feet, they will have to be moved by November 15 of the same year.
  4. No erosion control windbreak may be planted less than one hundred (100) feet from the right-of-way.
  5. New trees or shelter belt shall not be planted closer than two (2) rods from the right-of-way line nor within a radius of one hundred fifty (150) feet from the intersection of any road, highway or thoroughfare.
  6. In no event shall off-street parking space and structure cover more than sixty percent (60%) of the lot area.
  7. All inoperable farm machinery must be setback from the road right-of-way 150' or be placed behind farm buildings or screened in some acceptable manner so as to be out of view from the public road.
- b. The following shall not be considered to be encroachments on yard requirements:
1. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, and the like, provided they do not extend more than two and one-half (2 ½) feet or off-street parking except as hereinafter regulated.
  2. Yard lights and nameplate signs for one and two family dwellings or lights for illuminating parking areas. Loading areas or yards for safety and security purposes may be located within five (5) feet of the front lot line.
  3. Fences which do not exceed three and one-half (3 ½) feet in height and terraces, steps, uncovered porches, stoops or similar structures which do not extend above the height of the ground floor level of the principal

building and extend to a distance of less than two (2) feet from any lot line.

4. Within side or rear yards, bays not to exceed a depth of two (2) feet nor to contain an area of more than twenty (20) square feet, fire escapes not to exceed a width of three (3) feet, fences and walls not to exceed a height of six (6) feet above grade and open off-street parking for three (3) or less vehicles may be located to within five (5) feet of the lot line.
  5. Within rear yard: balconies, accessory structures except that no structure shall be closer than eight (8) feet from the rear lot line, breezeways, detached outdoor picnic shelters and recreational equipment, except as regulated hereinafter.
  6. In side yards only: accessory structures except that no accessory structure shall be closer than five (5) feet from any side lot line.
  7. Where buildings exist on lots either side of a lot, with front yard setbacks that do not conform to this Ordinance, the setback for the lot of record shall be determined to be equal to a straight line drawn between the front yard setback lines of the two adjacent buildings. In such case, where there is a nonconforming setback on a building adjacent to one side of a lot of record and the lot on the other side is vacant, the setback of the nonconforming building plus one-half (1/2) the difference between the setback of the nonconforming building and the setback required by this Ordinance. However, in no case shall the setback required exceed that specified within the affected district.
- c. Through lots shall have a required front yard on each street.

#### 10. Essential Services

- a. All pipelines, underground telephone lines, underground electric transmission lines and overhead electric transmission lines in excess of 33KV may be permitted in any use district, subject to the procedural requirements set forth in Section 21.
- b. Public utility buildings not considered industrial in use and for storage purposes shall be permitted uses in all zoning districts.

## **Section 6 - Agricultural District “A”**

### **A. Purpose**

The purpose of the Agricultural District "A" is to provide a district that will allow suitable areas within the County to be retained in agricultural uses, control scattered non-farm development, and promote economy in governmental expenditures by controlling development in agricultural areas.

### **B. Permitted Uses**

1. Agriculture, including one farm dwelling, agricultural buildings, dairying, livestock raising, and general horticulture.
2. Parks, recreational areas, wildlife areas, game refuges, and forest management.
3. Single family non-farm dwellings, but, not including residential subdivisions.
4. Churches, cemeteries, memorial gardens.
5. Flood control, watershed structures, erosion control, and fish game hatcheries.
6. Any new feedlot with under 700 animal units is proposed.
7. Windpower facilities 125 kilowatts and under.

### **C. Conditional Uses**

The County may impose, in addition to the standards and requirements set forth in this Ordinance, additional conditions which the Planning Commission or County Board considers necessary to protect the public health, safety, and welfare.

1. One (1) additional farm dwelling meeting the requirements for an on-site sewage treatment system and a domestic water supply as cited in Section 12, C, and other standards cited in Section 5, D, (#7b).
2. Commercial outdoor recreational areas - recreational vehicle campgrounds, public utility buildings and structures, and organized group camps.
3. Kennels and animal hospitals.



4. Processing, packaging and storage of agricultural products, including livestock; cold storage plants, stockyards, fertilizer plants, and pea viners.
5. Filling pits, quarries, and processing of natural resources indigenous to the County.
6. Auto reduction and salvage yards (see Section 12, H), and storage garages, provided such uses are adequately fenced and screened and all other applicable County, State, and Federal regulations are complied with.
7. Automobile dealerships or repair shops for new or used cars and trucks
8. Refuse areas and sanitary landfills, as regulated by the Watonwan County Health and Sanitation Regulations and the Minnesota Pollution Control Agency.
9. Public or private schools.
10. Essential services and pipelines.
11. Airports, heliports, landing fields, flying schools, hangars, terminals, switching yards, freight terminals, repair shops, and automobile testing grounds, subject to the following:
  - a. All buildings shall meet the setback requirements of this district.
  - b. Storage and maintenance areas shall be screened from adjacent properties and adjacent highway and road rights-of-way.
12. Any new feedlot with over 700 animal units is proposed, an existing feedlot is expanded to more than 700 animal units or a non-conforming feedlot is expanded to more than 300 animal units, subject to the following conditions:
  - a. Standards as set forth by the Minnesota Pollution Control Agency's Regulations, Chapter 7020, which are hereby adopted by reference.
  - b. Steps are taken to minimize the effects of any objectionable nuisances to existing residential dwellings or recreational development of property in the surrounding area.
13. An odor control plan must accompany all conditional use permit applications.
14. Open top pits and collection basin structures used in association with livestock feedlot operations.

15. Municipal water and wastewater treatment facilities and lagoons.
16. Manufacturing or processing facilities.
17. Consideration will be given for new feedlots located within ½ mile of any neighboring residences. The applicant shall use their best efforts to obtain the consent of said neighbor within the ½ mile, on a signed and notarized waiver form to be provided by the Planning and Zoning Office. If signed, this waiver form must be presented with the feedlot application. The person giving said permission may also limit the number of animals allowed to be placed at that site. In the case of any proposed expansions the operator must obtain updated sign-offs from all affected neighbors.
18. Windpower facilities over 125 kilowatts.

**D. Permitted Accessory Uses**

1. Private garages, home occupations, carports, fences, fallout or blast shelters, residential recreation equipment, off-street parking, nameplate and temporary signs, gardening and other horticultural uses where no sale of products is conducted within a building, decorative landscape features, and the keeping of not more than two (2) boarders or roomers by a resident family.
2. One roadside stand offering for sale primarily those products grown on the premises, provided that such stand does not exceed three hundred twenty (320) square feet in floor area; is located in conformance with the yard regulations; and provisions are made for access and off-street parking.

**E. Lot Size Requirements**

The minimum lot size shall be five (5) acres and two hundred fifty (250) feet in width.

**F. Yard Requirements**

1. Front Yard Setback: One hundred (100) feet from any public right-of-way.
2. Side Yard Setback: Twenty (20) feet from property line.
3. Rear Yard Setback: Fifty (50) feet from property line.
4. Field Windbreaks and Wildlife Block Planting Regulations: One hundred (100) feet from all county and township right-of-ways.

5. Where a lot is located at the intersection of two or more roads, there shall be a front yard setback from each road or highway. No accessory buildings shall project beyond the front yard line on either road.

**G. Building Height Requirements**

No building height requirements shall apply to agricultural buildings.

**H. General Regulations**

Additional requirements for signs, parking, and other regulations in the “A” Agricultural District are set forth in Section 12.

**I. Feedlot General Conditions**

1. The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions and minimum standards of the Watonwan County Zoning Ordinance, and the MPCA Chapter 7020 Rules. Any new or expanding feedlot must be registered with the Watonwan County Environmental Services Officer prior to submission to MPCA for feedlot permits of 1000 animal units or more and all feedlot permits of 2500 or more finishing swine.
2. The County shall forward to the Commissioner of MPCA with comments and recommendations, all animal feedlot permit applications which fall within the following categories:
  - a. Animal feedlots of 1,000 animal units or more and all feedlot permits of 2500 or more finishing swine.
  - b. Animal feedlots of more than 300 animal units where a potential pollution hazard has been mitigated through corrective or protective measures.
  - c. Animal feedlots with a potential pollution hazard which has not been mitigated by corrective or protective measures.
  - d. Animal feedlots where manure is not used as domestic fertilizer.
  - e. Animal feedlots for which further technical review is desired by the County Feedlot Pollution Control Office.
3. The County shall exercise authority to issue, deny, modify, impose conditions upon or revoke interim permits for animal feedlots smaller than

300 animal units where animal manure is used as a domestic fertilizer and with a potential pollution hazard which will be mitigated by corrective or protective measures within 10 months of the date of the issuance of the interim animal feedlot permit. The County further agrees to follow the requirements cited in Minnesota rules pt.7020.1600, subp. 3A, B, C, and D, in carrying out these tasks.

4. The Zoning Department shall have the following duties and responsibilities:
  - a. To review all applications for feedlot operations;
  - b. To review all proposals for the land application of manure;
  - c. To issue all permits required by this section;
  - d. To inspect work in progress and to perform the necessary tests to determine its conformance with this section;
  - e. To investigate complaints regarding feedlot operations;
  - f. To perform compliance inspections;
  - g. To issue certificates of compliance or notice of noncompliance where appropriate;
  - h. To issue Stop Work Orders and Notices of Violation, pursuant to this section;
  - i. To take complaints to the County Attorney for violations of this section; and
  - j. To maintain proper records for manure disposal.
5. All required information and fees must accompany each feedlot application prior to consideration for a feedlot permit.
6. Feedlots that are required to meet setbacks will need to submit, when requested by the Zoning Administrator, proof showing the distance will be met. This form will be signed by a licensed surveyor, and show the distance between the feedlot and the property in question.
7. All feedlot operators must obtain and maintain a valid feedlot permit by December 31, 1998. After this time, any unpermitted facilities are in violation of this ordinance. Furthermore, any facilities without a feedlot permit will not be considered "existing" and will need to meet the requirements of a "new" feedlot. A new feedlot permit application will also be required when a feedlot is vacant for 5 years. A feedlot will be considered vacant unless a minimum of 20 animal units have been in place for a period of 60 or more consecutive days at some time during the previous 5 years.
8. An existing feedlot may be allowed to expand as long as the expansion is contained within 1000 feet from an existing feedlot building constructed prior to December 1995. The expansion will need to meet the requirements of a "new" feedlot if any of the following conditions exist:

- 1) The expansion is across a public road or highway.
  - 2) The expansion is not completely within 1000 feet of an existing feedlot.
  - 3) The existing buildings were constructed after December, 1995.
9. A current feedlot permit shall be required prior to the acceptance of a conditional use permit application being accepted.
  10. Non-conforming existing feedlots may be allowed to expand to a maximum of 1600 animal units, without meeting setback requirements established in Section 6 item K.
  11. An accessible perimeter tile inspection site must be installed for all new buildings. This inspection site must be within 100 feet of the building, between the building perimeter tile and the outlet and must be rigid, non-perforated material.
  12. No feedlot expansions over 400 animal units will be allowed within 1000 feet of a neighbor's residence unless a signed waiver is obtained.
  13. A 4-sided dead animal structure that is designed to keep animals and birds out will be required for all new feedlots or expansions of existing feedlots. Alternative methods of dead animal disposal (for example: composting, incineration, etc.) that follow the recommendations of the State of Minnesota Board of Animal Health will be considered.
  14. Inspection of a feedlot site would be required prior to permitting a feedlot. An inspection team consisting of the Environmental Service Officer, SWCD Representative, County Commissioner, and a Township Supervisor would be involved in the inspection process.

**J. Feedlot Application Requirements**

1. The owner of a proposed or existing animal feedlot for greater than 20 animal units shall make an application to Watonwan County for a feedlot permit when any of the following conditions exist:
  - a. A new feedlot is proposed where a feedlot did not previously exist.
  - b. An existing feedlot which does not have a Feedlot Permit.
  - c. Any change in operation of an existing animal feedlot is proposed.
  - d. A change in ownership of an existing feedlot.
  - e. An existing feedlot is to be restocked after being abandoned for 5 or more years.
  - f. An inspection by Minnesota Pollution Control Agency (MPCA) staff or County Feedlot Officer reveals that the feedlot is creating a potential pollution hazard.

2. Type of Animal	Animal Unit (A.U.)
a. 1 mature dairy cow	1.4
b. 1 slaughter steer or heifer	1.0
c. 1 horse	1.0
d. 1 swine over 55 pounds	0.4
e. 1 sheep	0.1
f. 1 swine under 55	0.05
g. 1 turkey	0.018
h. 1 chicken	0.01
i. 1 duck	0.01

Other animals - average weight of animal divided by 1,000# = Animal Units

**K. Feedlot Setback Requirements.**

In order to prevent pollution of surface and groundwater, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Ordinance shall regulate feedlot size and location.

No feedlot shall hereafter be erected within the following distances:

1. One half (1/2) mile from a Public Park(s);
2. One (1) mile from 20 or more residences, as defined all residences within a one mile radius of a proposed feedlot; or a municipality;
3. No animal feedlots shall be located closer than one-half (1/2) mile from a neighboring residence, other than residences owned by the operators, without the proper signed waiver. A residence will be considered a qualified dwelling if it has been occupied for 60 or more consecutive days during the previous 5 year period. The points of determination for the measured setback will be that point of the nearest currently inhabited or qualified habitable dwelling to the nearest proposed animal containment facility. (Consideration for new feedlots less than a 1/2 mile from a neighbor will be determined through a conditional use hearing - see Section C. Conditional Uses #17.)
4. Feedlots shall not be located within a Shoreland or Floodplain Management District;
5. Three hundred (300) feet from all public and private drainage ditches and tile intakes, or within one thousand (1000) feet from any “protected basin” as listed in Section 5, B, (#1a).
6. No non-farm dwelling shall be allowed within one half (1/2) mile of an existing feedlot, unless it is to replace an existing dwelling;

7. One half (1/2) mile from a building used as a church, synagogue, or place of worship with regular scheduled services;
8. One half mile from schools. One half mile from cemeteries established prior to the date of this amendment.

**L. Manure Management Requirements**

1. A manure management plan shall be required as a part of all feedlot applications.
2. The manure management plan shall be developed by the producer and a qualified agronomist. The plan must meet Minnesota Pollution Control Agency standards.
3. Manure management plan
  - a. Required to include enough land necessary to utilize the amount of waste to be produced at the site. Agreements for land other than the operators, being used to meet this requirement must be in writing and contain at least the following terms:
    1. be signed by all parties
    2. be notarized
    3. be for a minimum of ten (10) years in length
    4. list property owners name
    5. have legal description of property
  - b. Land, other than the previously mentioned, may be used for manure spreading with prior approval from the County Feedlot Officer.
  - c. Manure handling records must be reported annually to the County Feedlot Officer. This will include a record of the amount of manure hauled, when it was hauled, and where it was hauled. This information will be required to be submitted to the Feedlot Officer by January 31<sup>st</sup>, for the previous year. If this information is not received by this time, the operator is in violation of this ordinance and the feedlot permit can be revoked; and
  - d. The manure plan must contain the information, terms, data, documents, exhibits, etc. as required by the Watonwan County Manure Management Plan Criteria as adopted and amended from time to time by the Watonwan County Board of Commissioners.

3. All new liquid manure storage facilities used for raising livestock shall be for a minimum of 12 months storage capacity, with the exception of facilities used exclusively for storage of bovine manure which will be required to hold 6 months production of manure.
4. All applications of liquid manure shall be injected or incorporated within 24 hours, whenever possible.

**Animal Waste Application and Utilization Setbacks**

<b><u>Liquid Manure</u></b>	<b><u>Surface Applied</u></b>	<b><u>Incorporated or Injected</u></b>	<b><u>All Non-Liquid Manure</u></b>	<b><u>Location</u></b>
	300 Feet	100 Feet OHWL	100 feet	Watercourses, streams, lakes, wetlands, and drainage ditches
	1000 Feet	1000 Feet	1000 feet	Municipal Well
	1000 Feet	200 Feet	200 feet	Private Wells
	1000 Feet	200 Feet	200 feet	Residential area (10 or more homes) or municipality
	1000 Feet	100 Feet	100 feet	Neighboring residence or cemeteries
	Prohibited	Yes	Prohibited	10 year floodplain
	300 Feet	10 Feet	300 feet	Field tile intake

**M. Prohibited Uses**



1. Spillage or spreading of manure on roads or in road right-of-ways shall constitute a violation of this ordinance.
2. The use of manure irrigation guns (new and existing) for the purpose of manure application.
3. No new feedlots shall be allowed within the 100-year Flood Plain areas.
4. No new feedlots shall be allowed within 1000 feet of the ordinary high water mark of a lake or within 300 feet of the ordinary high water mark of a stream or river.
5. No new feedlots shall be allowed within 100 feet of any public or private well.
6. New feedlots shall be setback a minimum of 30 feet from the top of a steep slope or as determined by the Zoning Administrator. The expansion of an existing feedlot that is already located at less than 30 feet from a steep slope may occur, but the addition will be encouraged to not further encroach upon the slope setback.
7. New feedlots must be setback at least 300 feet from a public or private drainage ditch or tile intake. The expansion of existing feedlots located less than 300 feet from a drainage ditch or tile intake are encouraged to locate away from the drainage ditch or tile intake.
8. No feedlots shall be permitted for new earthen basins, or for the expansion of existing earthen basins.

#### **N. Expansion of Existing Feedlots in Prohibited Zones**

Expansion of existing feedlots located within 1 mile of the boundary lines of the cities of St. James, Madelia, Odin, Ormsby, Butterfield, Darfur, Lewisville, and LaSalle, and within 1/2 mile of the unincorporated areas of South Branch, Echols, Sveadahl, Godahl, and Grogan (concerning setbacks, animal units, etc.) will be determined through the Conditional Use hearing, as outlined in Section C, #12.

## Section 7 - Rural Residential District "R-1"

### A. Purpose

The purpose of the Rural Residential District "R-1" is to provide suitable areas of low density residential development of select locations in rural areas, in areas of existing development which occurs in unincorporated areas, where municipal utilities or an approved community utility system is available, or as it substantially relates to the urban development pattern set forth in the Land Use Plan for Watonwan County or any other adopted Land Use Plans of the municipalities.

### B. Permitted Uses

1. Single family dwellings and subdivisions
2. Parks and recreation areas owned or operated by a government agency
3. Public or private schools, provided no building shall be located within fifty (50) feet of any lot line of a residential use
4. Golf Courses
5. Limited agriculture, farming, truck gardening activities

### C. Conditional Uses

1. Two family dwellings and multiple family dwellings
2. Water supply buildings, reservoirs, commercial wells, elevated tanks, gas regulator stations, electric substations and similar essential service structures, except that no structure shall be located within fifty (50) feet of any residential lot line
3. Golf clubhouses, swimming pools, cemeteries, memorial gardens, churches, and schools
4. Municipal administration buildings, community centers and other municipal service buildings, except those customarily considered industrial in use, and provided that no buildings shall be located within fifty (50) feet of any residential lot line
5. Residential planned unit developments which utilize an integrated design for the site through a clustering of buildings and activities, utilize a central water and

sewer system, and provide for adequate property control through a homeowners association.

**D. Permitted Accessory Uses**

Private garages, carports, private swimming pools when enclosed within a chain link fence, home occupations, storage of residential recreation equipment, and the keeping of not more than two (2) boarders or roomers by a resident family

**E. Lot Size Requirements**

Every lot on which a dwelling is to be erected shall contain an area of not less than one (1) acre provided that the soils are adequate to support individual disposal systems where utilized.

**F. Yard Requirements**

1. Front Yard Setback: Thirty-five (35) feet from the right-of-way line
2. Side Yard: Ten (10) feet on both side yards
3. Rear Yard: Twenty (20) feet
4. Where a lot is located at the intersection of two or more roads, there shall be a front yard setback on each road. No accessory buildings shall project beyond the front yard line of either road.

**G. Building Height Requirements**

No building hereafter erected shall exceed two (2) stories or twenty-five (25) feet, whichever is greater.

**H. General Regulations**

Additional requirements for signs, parking and other regulations in the “R-1” Rural Residential District are set forth in Section 12.

## **Section 8 - General Business District "B"**

### **A. Purpose**

The purpose of the General Business District "B" is to provide a district allowing for a wide range of services and goods in compact and convenient locations, limited to existing urban areas or major transportation routes. Such business development is to be developed at density levels that will not impair the traffic carrying capacity of abutting roads and highways.

### **B. Permitted Uses**

1. Bowling alleys
2. Drive-in restaurants, drive-in theaters or similar uses that provide goods and services to patrons in automobiles provided that:
  - a. A solid screen fence of acceptable design is constructed along the property line when said use is abutting a Residential District.
  - b. The parking area is surfaced and exits shall be subject to approval by the County Engineer.
  - c. Lighting, whether direct or reflected, shall not be directed onto an adjacent property.
3. Florist shops, greenhouses, nurseries, and garden stores
4. Motel and motor hotels
5. Professional and governmental offices and buildings
6. Restaurants
7. Retail sales and services (examples: hardware, specialty sales, supermarkets, clothing, banks, general stores)
8. Service establishments (examples: medical, veterinarian clinics, parking lots, repair shops)
9. Tourist related sales and service and recreational facilities

**C. Conditional Uses**

1. Single family dwellings when associated with the principal use of the property, under the same ownership, and attached to the principal use.
2. Open and outdoor storage, sales and service:
  - a. Sales areas shall be fenced and screened from adjacent Residential Districts.
  - b. All lighting shall be hooded or so directed that the light source is not directly visible from the public right-of-way or adjoining property.
  - c. The area does not take up parking space required by this Ordinance.
  - d. The sales area is grassed or surfaced to control dust.
3. Automobile oriented businesses (examples: laundries, car wash, service station, repair shops, gasoline and oil sales, accessory stores)
4. Automobile and farm implement sales and service
5. Other highway oriented business activities as those listed under the permitted uses in this Section as deemed suitable by the Planning Commission and County Board and subject to all conditions imposed thereon.
6. Taverns and clubs
7. Telecommunication Facilities

**D. Permitted Accessory Uses**

1. Off-street parking and loading as regulated by Section 12 of this Ordinance.
2. Commercial or business structures for use accessory to the principal use but not exceeding thirty percent (30%) of the floor space of the principal use and meeting all other setback and parking requirements of this Ordinance.

**E. Lot Size Requirements, Coverage and Height Regulations**

1. Every lot or tract shall have a width of not less than eighty (80) feet abutting a public right-of-way.
2. The minimum lot area shall be the area necessary to meet the stipulated yard setbacks, parking, loading, buffering, sewage and other space requirements set

forth in this Ordinance. However, in no case shall more than fifty percent (50%) of the lot be occupied by buildings.

**F. Yard Requirements**

1. Front Yard: Thirty-five (35) from the road right-of-way line
2. Side Yard: Twenty (20) feet on both sides
3. Rear Yard: Twenty (20) feet
4. Where a lot is located at the intersection of two or more roads, there shall be a front yard setback on each road. No accessory buildings shall project beyond the front line of either road.

**G. Building Height Requirements**

No building hereafter erected shall exceed two and one-half (2 ½) stories or thirty (30) feet in height, whichever is greater.

**H. Highway Interchange Overlay Subdistrict**

1. There shall be a Highway Interchange Overlay District at all intersecting highways, as they are defined herein, where there is an existing or proposed grade separation and system of ramp or turning roads for the interchange of vehicular traffic from one highway to another and said Highway Interchange Overlay District shall include all lands within 1,500 feet of the existing or proposed right-of-way of the interchange, the limits of which shall extend to the most remote end of taper of any entrance to, or exit from, said intersecting highways.
2. The Highway Interchange Overlay District is intended as a means of supplemental control of land use, building location and bulk, and vehicular access at points of existing or potential traffic intensity in addition to the normal requirements of the several districts which are set forth herein and shall be used only in combination with one or more of such other districts. Therefore, within the limits of the Highway Interchange Overlay District, all requirements set forth in the applicable district shall apply in said district, with the following additions or exceptions:
  - a. All minimum yard dimensions shall be increased by fifty (50) feet in yards which abut upon an interchange right-of-way as permitted herein.
  - b. There shall be no direct access granted from a building or use, frontage road, or other street to an interchange ramp; and there shall be no direct access

granted to a building or use, frontage road, or other street from an interchange ramp.

- c. There shall be no permanent access granted from a structure or use, frontage road, or other street to an intersecting highway within five hundred (500) feet of the most remote end of taper of any entrance to, or exit from, said intersecting highway unless a lesser distance be permitted by a designated representative of the authority having jurisdiction over said highway.
- d. To avoid slight jogs in alignment, permitted access points along both sides of intersecting highways shall be located directly opposite each other or directly opposite a median strip crossover. Permitted access points along the same side of a highway shall be located not less than five hundred (500) feet apart.
- e. The requirements and restrictions set forth in subparagraphs 1 and 2 above may be temporarily waived subject to the following conditions:
  - 1) provided that a temporary access permit is obtained from the authority having jurisdiction over the highway;
  - 2) any use or access shall be limited to the use described in the application for the temporary access permit;
  - 3) such permitted access shall be temporary in nature and shall be revoked upon the construction of a frontage road or an internal circulation system providing alternate means of access; and
  - 4) wherever practical, only one (1) point of access for each two (2) parcels shall be allowed in issuing said temporary access permit.

## **I. General Regulations**

Additional requirements for signs, parking and other regulations in the “B” General Business District are set forth in Section 12.

## **Section 9 - General Industry District “I”**

### **A. Purpose**

The purpose of the General Industry District “I” is to provide a district allowing a wide range of warehousing and industrial uses closely related to existing urban areas or major transportation routes. Such industrial uses to be developed at standards that will not impair the traffic carrying capabilities of abutting roads and highways.

### **B. Permitted Uses**

1. Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards set forth hereinafter and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosive hazards or glare.
2. Building materials and sales
3. Cartage and express facilities
4. Contractors, architects, and engineers offices, shops and yards, such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing
5. Dwelling unit for watchmen, supervisors, and their families, located on the premises where they are employed in such capacity provided the dwelling is under the same ownership as the principal use.
6. Farm implement sales, service, storage and repair
7. Grain elevators
8. Garages for storage, repair and servicing of motor vehicles
9. Public utility and service buildings (examples: waterworks, railroad yards, bus terminals, utility shops)
10. Transmission and receiving towers and stations (examples: radio, television, radar)
11. Warehousing of bulk goods or goods produced on the premises

### **C. Conditional Uses**

1. Refuse areas, sanitary landfills, car refuse, junk yards and livestock sales subject to the following:
  - a. Sales and display areas are screened from adjacent properties and rights-of-way.



- b. The drainage patterns and general system shall be approved by the County Engineer.
  - c. The lighting shall be accomplished in such a way as to have no direct source of light visible from public rights-of-way.
  - d. Provisions are made to reduce or control noise.
  - e. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the County Engineer.
  - f. All landfills shall meet the County Landfill Regulations.
2. Fuel, fertilizer (containerized or bulk) processing and storage subject to the following:
    - a. The storage area is protected against spillage onto adjoining property through the provision of earthen berms or other acceptable means.
    - b. Lighting is hooded or so directed that the light source is not visible from adjoining property or public rights-of-way.
    - c. The storage area is grassed or surfaced to control dust.
    - d. Adequate parking and loading space is developed to accommodate the specific use needs.
  3. Extraction, processing or storage of sand, gravel, stone or other raw materials provided that all provisions of Section 12, Subdivision D are considered and complied with.
  4. Industrial Planned Unit Developments
  5. Telecommunication Facilities

**D. Permitted Accessory Uses**

1. Offices, retail and service buildings accessory to the principal use
2. Open, outdoor sales, service and storage
3. Accessory uses customarily incidental to the permitted uses in this District

**E. Lot Size Requirements, Yard, Height, and Coverage Regulations**

1. Every lot or tract shall have a width of not less than one hundred (100) feet abutting a public right-of-way.
2. The minimum lot area shall be the area necessary to meet the stipulated yard setbacks, parking, loading, buffering, sewage or other space requirements set forth in this Ordinance. Not more than sixty percent (60%) of the lot shall be occupied by buildings.

**F. Yard Requirements**

1. Front Yard: One hundred (100) feet from all right-of-way lines
2. Side Yard: Fifteen (15) feet on both side yards
3. Rear Yard: Fifteen (15) feet from the rear lot line
4. Where a lot is located at the intersection of two or more roads, there shall be a front yard setback on each road. No accessory buildings shall project beyond the front yard line of either road.
5. Where a use has railroad side trackage abutting the side or rear of a site, a railroad loading facility may be constructed closer to the lot line than strict adherence to the rear or side yard setbacks would require, subject to approval by the Planning Commission and County Board.

**G. Building Height Requirements**

No structure shall exceed four (4) stories or forty-five (45) feet in height, except that cooling towers, elevator penthouses, water towers, smokestacks, and grain storage facilities may be of any height which does not conflict with any airport requirements.

**H. General Regulations**

Additional requirements for signs, parking, and other regulations in the General Industry District "I" are set forth in Section 12.

## **Section 10 - Shoreland Overlay District**

### **A. Statutory Authorization**

The provisions of this section are adopted pursuant to Minnesota Statutes, Chapters 103F and 394, and Minnesota Regulations, Parts 6120.2500 - 6120.3900.

### **B. General Provisions**

#### 1. Lands To Which This Section Applies

This section shall apply to all land designated as shoreland area within the jurisdiction of Watonwan County. This minimum area includes lands three hundred (300) feet landward from the ordinary high water level of all protected watercourses and 1,000 feet landward from the ordinary high water level of all protected water basins as identified on the Protected Waters and Wetlands Map and listed in Section 5 of this Ordinance.

#### 2. Compliance

The use of any shoreland, the size and shape of lots, the building of new or the alteration of existing structures, the installation and maintenance of water supply or waste treatment systems, the grading and filling of any shoreland area shall be in full compliance with the terms of this Ordinance and other applicable regulations.

#### 3. Interpretation

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

#### 4. Notifications to the Department of Natural Resources

- a. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten (10) days before the hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- b. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

## **C. Shoreland Overlay Regulations**

### 1. Purpose

To provide an overlay district to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

### 2. Permitted Uses

#### a. In the Agricultural District (“A”)

- 1) Agriculture, including farm dwellings, agricultural buildings, dairy, livestock raising (see section 10, subsection G, 2 for shoreland regulations), and general horticulture
- 2) Parks, recreational areas, wildlife areas, game refuges, and forest management
- 3) Single family non-farm dwellings but not including residential subdivisions
- 4) Churches, cemeteries, memorial gardens
- 5) Flood control, watershed structures, erosion control, and fish game hatcheries

#### b. In the Rural Residential District (“R-1”),

- 1) Single family dwellings and subdivisions
- 2) Single family dwellings on existing platted lots
- 3) Parks and recreation areas owned or operated by a government agency
- 4) Golf Courses
- 5) Limited agriculture, farming, truck gardening activities

#### c. In the General Business District (“B”),

- 1) Bowling alleys
- 2) Drive-in restaurants, drive-in theaters or similar uses that provide goods and services to patrons in automobiles provided that:
  - a) A solid screen fence of acceptable design is constructed along the property line when said use is abutting a Residential District.
  - b) The parking area is surfaced and exits shall be subject to approval by the County Engineer.
  - c) Lighting, whether direct or reflected, shall not be directed onto an adjacent property.

- 3) Florist shops, greenhouses, nurseries, and garden stores
  - 4) Professional, governmental offices and buildings
  - 5) Restaurants
  - 6) Retail sales and services (examples: hardware, specialty sales, supermarkets, clothing, banks, general stores)
  - 7) Service establishments (examples: medical, veterinarian clinics, parking lots, repair shops)
  - 8) Taverns, clubs
  - 9) Tourist related sales and service and recreational facilities
- d. In the General Industry District (“I”), no uses are permitted

### 3. Conditional Uses

- a. In the Agricultural District (“A”):
- 1) One (1) additional farm dwelling meeting the requirements for an on-site sewage treatment system and a water supply as cited in Section 12-Subdivision L
  - 2) Feedlots, subject to standards cited in Section 6, C, #3 and Section 10, G, #2
  - 3) Public or private schools
  - 4) Recreational vehicle campground areas
  - 5) Extraction of minerals and quarrying
  - 6) Essential services and pipelines, provided they cannot be reasonably located outside the shoreland area
- b. In the Rural Residential District (“R-1”):
- 1) Two family dwellings and multiple family dwellings, provided they meet all lot size requirements and sanitary requirements, as referenced.
  - 2) Essential service structures, provided they cannot be located outside the shoreland area.
  - 3) Golf clubhouses
  - 4) Churches and schools
  - 5) Cemeteries and memorial gardens
  - 6) Municipal buildings and community centers
  - 7) Residential PUDs
  - 8) Public or private schools, providing no building is located within fifty (50) feet of any residential lot line

- c. In the General Business (“B”):
  - 1) Single family dwellings when associated with the principal use of the property, under the same ownership, and attached to the principal use.
  - 2) Open and outdoor storage, sales and service:
    - a) Sales areas shall be fenced and screened from adjacent Residential Districts.
    - b) All lighting shall be hooded or so directed that the light source is not directly visible from the public right-of-way or adjoining property.
    - c) The area does not take up parking space required by this Ordinance.
    - d) The sales area is grassed or surfaced to control dust.
  - 3) Automobile oriented businesses (examples: laundries, car wash, service station, repair shops, gasoline and oil sales, accessory stores)
  - 4) Automobile and farm implement sales and service
  - 5) Motels and motor hotels (see Section 12, F for PUD development standards)
  
- d. In the Industrial District (“I”): All industrial uses will be processed as a Conditional Use in the shoreland areas.
  - 1) Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards set forth hereinafter and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosive hazards or glare.
  - 2) Building materials and sales
  - 3) Cartage and express facilities
  - 4) Contractors, architects, and engineers offices, shops and yards, such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing
  - 5) Dwelling unit for watchmen, supervisors, and their families, located on the premises where they are employed in such capacity provided the dwelling is under the same ownership as the principal use
  - 6) Farm implement sales, service, storage and repair
  - 7) Grain elevators
  - 8) Garages for storage, repair and servicing of motor vehicles
  - 9) Public utility and service buildings (examples: waterworks, railroad yards, bus terminals, utility shops)
  - 10) Transmission and receiving towers and stations (examples: radio, television, radar)
  - 11) Warehousing of bulk goods or goods produced on the premises

4. Performance Standards

a. Lot Area and Width Standards for Lakes

**1) Natural Environment Lakes (lot area)**

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	5 acres	2 acres	2 acres	1 acre	1 acre
Duplex	NA	3 acres	4 acres	2 acres	1 acre
Triplex	NA	4 acres	6 acres	2.5 acres	1.5 acres
Quad	NA	5 acres	8 acres	3 acres	1.5 acre

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

**2) Natural Environment Lakes (lot width)**

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	250'	200'	200'	125'	125'
Duplex	NA	300'	400'	225'	220'
Triplex	NA	400'	600'	325'	315'
Quad	NA	500'	800'	425'	410'

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

**3) Recreational Development Lakes (lot area)**

		"A" District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	5 acres	1 acre	1 acre	1 acre	1 acre
Duplex	NA	2 acres	2 acres	1 acre	1 acre
Triplex	NA	3 acres	3 acres	1.5 acres	1 acre
Quad	NA	4 acres	4 acres	1.5 acre	1.5 acre

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

**4) Recreational Development Lakes (lot width)**

		“A” District		R-1, B and I Districts	
		Unsewered		Sewered	
		<u>Riparian</u>	<u>Non-Riparian</u>	<u>Riparian</u>	<u>Non-Riparian</u>
Single Family	250’	150’	150’	125’	125’
Duplex	NA	225’	265’	135’	135’
Triplex	NA	300’	375’	195’	190’
Quad	NA	375’	490’	255’	245’

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

b. Lot Area and Widths for Protected Watercourses:

- 1) Refer to the Underlying District for required Lot Area
- 2) Lot Widths by Classification:

	“A” Districts		R-1, B and I Districts		
	<u>Agriculture</u>	<u>Tributary</u>	<u>Agriculture</u>	<u>Tributary - Sewered</u>	<u>Tributary - Unsewered</u>
Single Family	250’	250’	150’	75’	100’
Duplex	NA	NA	225’	115’	150’
Triplex	NA	NA	300’	150’	200’
Quad	NA	NA	375’	190’	250’

- A development of five (5) or more dwelling units must be processed as a PUD (section 12, F)

c. Height Regulations

Refer to the Underlying District for applicable standards

d. Front, Side and Rear Yard Setbacks

- 1) Refer to Underlying District for applicable Standards
- 2) Setbacks from Ordinary High Water Level

Setbacks (in feet)

Classes of



<u>Public Waters</u>	<u>Unsewered</u>	<u>Sewered</u>	<u>System</u>
<b>Lakes</b>			
Natural Environment	150	150	150
Recreational Development	100	75	75
<b>Rivers</b>			
Agricultural and Tributary	100	50	75

3) Additional Structure Setbacks (in feet)

<u>Setback From</u>	<u>Setback</u>
1) Top of Bluff	30
2) Unplatted Cemetery	50
3) Road Right-of-Way	
a) All Districts except R-1 and B	100
b) R-1 and B Districts	35
4) Ordinary High Water Level	
a) For one water oriented accessory structure	10
b) New animal feedlots	1000

5. Placement of Structures on Lots

- a. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
- b. Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- c. Uses Without Water Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

6. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where the data does not exist, the elevation to which the lowest floor, including basement, is placed or flood proofed must be determined as follows:
  - 1) for lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
  - 2) for rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
  
- b. Water Oriented Accessory Structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
  - 1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight (8) feet above grade at any point;
  - 2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
  - 3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - 4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area; and
  - 5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
  
- c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- 1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments;
  - 2) Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments;
  - 3) Canopies or roofs are not allowed on stairways, lifts, or landings;
  - 4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - 5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of 1 through 4 above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about site has been removed and documented in a public repository.
- e. Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

## 7. Additional Special Provisions

- a. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:
  - 1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - 2) If docking, mooring, or over water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table.

## Controlled Access Lot Frontage Requirements

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

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

### ***D. Shoreland Alterations***

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

1. **Vegetation Alterations**
  - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas as regulated elsewhere in this Ordinance are exempt from the vegetation alteration standards that follow.

- b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subsection G of this Chapter is allowed subject to the following standards:
  - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowed as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that:
    - a) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on condition, is not substantially reduced;
    - b) along rivers, existing shading of water surfaces is preserved; and
    - c) the above provisions are not applicable to the removal of trees, limb or branches that are dead, diseased, or pose safety hazards.
  - 3) The use of fertilizer and pesticides in the shoreland district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

## 2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit, however, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- b. Public roads and parking areas are regulated by Subsection E of this Chapter.
- c. Notwithstanding items a and b above, a grading and filling permit will be required for:
  - 1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - 2) the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

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

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

- 2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- 3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
- 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- 5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- 6) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- 7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater.
- 8) Fill or excavated material must not be placed in bluff impact zones.
- 9) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245.

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

***E. Placement and Design of Roads, Driveways and Parking Areas***

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.
3. Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Subsection D, #2 of this Chapter must be met.

***F. Stormwater Management***

The following general and specific standards shall apply:

1. General Standards
  - a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater run-off before discharge to public waters.

- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater run-off using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

## 2. Specific Standards

- a. Impervious surface coverage of lots must not exceed twenty five percent (25%) of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

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

### 1. Standards for Commercial, Industrial, Public and Semipublic Uses

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



- a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
  - b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
  - c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- b. Uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## 2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
- b. Animal feedlots must meet the following standards:
  - 1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 1,000 feet from the ordinary high water level of all public waters basins.
  - 2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

- 3) A feedlot permit must be obtained by the owner or operator of an animal feedlot when required by MPCA Regulations, Chapter 7020.
- c. Pasturing of livestock along Recreational Development (RD) Lakes (Kansas, Long, and St. James Lakes as of 1/01/94) must meet the following standards. These standards do not apply along any other types of lakes nor along watercourses:
  - 1) A fence must be erected and setback from the ordinary high water level a minimum of 20 feet so that livestock will be prevented from entering open water of the protected basin.

### 3. Forest Management Standards

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

### 4. Extractive Use Standards

- a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities ends.
- b. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

### 5. Mining of Metallic Minerals and Peat

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

## **H. Conditional Uses**

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established county-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria

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

- a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. the visibility of structures and other facilities as viewed from the public waters is limited;
- c. the site is adequate for water supply and on-site sewage treatment; and
- d. the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

2. Conditions Attached to Conditional Permits

The Planning Commission or the County Board, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

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

***I. Water Supply***

1. Water Supply

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

***J. Non-Conformities***

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

1. Construction on Non-conforming Lots of Record

- a. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Subsection C of this Chapter may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Subsection C of this Chapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Subsection C of this Chapter as much as possible.

2. Additions or Expansions to Non-conforming Structures

- a. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 10,C,#4 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 15.
- b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
  - 1) the structure existed on the date the structure setbacks were established;
  - 2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - 3) the deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary

high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and

- 4) the deck is constructed primarily of wood and is not roofed or screened.

### 3. Non-conforming Sewage Treatment Systems

- a. A sewage treatment system not meeting the requirements of Subsection L of Section 12-General Provisions must be upgraded, at a minimum, at any time a property owner applies for a building permit, applies for a conditional use permit, variance, rezoning, or when the recording of a property transfer is required in the sale of property with an existing dwelling, subject to rules listed in Sec. 12, Subd. L. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- b. The governing body of Watonwan County has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems. At the time of application for a building permit, a conditional use permit, variance, or rezoning, the Zoning Administrator shall inform the applicant that prior to the granting of said permit, the property owner's on-site septic system must be inspected to determine whether it conforms to all applicable regulations referenced in this Ordinance. The county will require upgrading or replacement of any non-conforming system identified by this program within the time frame required in Sec. 12, Subd. L of this Ordinance.

In the case of property transfer, rules established in Sec. 12, Subd. L shall be followed, including the filing of the Septic Disclosure/Agreement form.

Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F in effect at the time of installation, may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080- 7081 for design of on-site sewage treatment systems, shall be considered non-conforming.

### ***K. Subdivision/Platting Provisions***

#### 1. Land Suitability

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall

consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for waterbased recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

## 2. Consistency with Other Controls.

Subdivisions must conform to the Watonwan County Subdivision Ordinance. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 10,C,#4 and 10, I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 10,C, #4, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

## 3. Information Requirements

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

- a. topographic contours at ten (10) foot intervals or less from United States Geological Survey Maps or more accurate sources, showing limiting site characteristics;
- b. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- c. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- d. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater run-off and erosion, both during and after construction activities;
- e. location of 100 year flood plain areas and floodway districts from existing adopted maps or data; and
- f. a line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

#### 4. Dedications

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

#### 5. Platting

All subdivisions that create one (1) or more lots or parcels that are five (5) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

#### 6. Controlled Access or Recreational Lots

Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 10,C,#7a of this Ordinance.

## **Section 11 - Flood Plain Overlay District**

### **A. Statutory Authorization, Findings of Fact and Purpose**

#### 1. Statutory Authorization

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners of Watonwan County, Minnesota does ordain as follows:

#### 2. Statement of Purpose

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

#### 3. Warning of Disclaimer of Liability

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

### **B. General Provisions**

#### 1. Lands to Which This Section Applies

This Section shall apply to all lands within the jurisdiction of Watonwan County, as shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Flood Plain.

#### 2. Establishment of Official Zoning Map

The Official Zoning Map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this Ordinance. The attached materials shall include the Flood Insurance Rate Map for the unincorporated areas in the County of Watonwan developed by the Federal Emergency Management Agency



dated July 3, 1985. The Official Zoning Map shall be on file in the Office of the Zoning Administrator and the County Auditor.

3. Interpretation

- a. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Watonwan County and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- b. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. If 100-year flood elevations are not available, the county shall: (1) require a flood plain evaluation consistent with Section D, #3 of this chapter to determine a 100-year flood elevation for the site; or (2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

**C. Conflict with Preexisting Zoning Regulations and General Compliance**

1. The Flood Plain District as Overlay District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in this Section shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this chapter shall apply in addition to other legally established regulations of the county and where this chapter imposes greater restrictions, the provisions of this chapter shall apply.
2. Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe, all uses not listed as permitted uses or conditional uses in Section D that follow, shall be prohibited. In addition, a caution is provided here that:
  - a. Travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically Section K;
  - b. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically Section H; and
  - c. As built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a

registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in Section G of this Ordinance.

#### **D. Permitted Uses, Standards, and Flood Plain Evaluation Criteria**

##### 1. Permitted Uses

- a. Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.
- b. Any use of land involving the construction of new structures, the replacement of existing structures, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in #2 below and the flood plain evaluation criteria in #3 below for determining floodway and flood fringe boundaries.
- c. Travel trailers and travel vehicles are regulated by Section K of this chapter.

##### 2. Standards for Flood Plain Permitted Uses

- a. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- b. Storage of Material and Equipment
  - 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.
- c. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
- d. All structures, including accessory structures and additions to existing structures, shall be constructed on fill so that the basement floor, or first floor if there is no

basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.

- e. All Uses. Uses that do not have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.
- f. Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood..
- g. On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided: (1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and (2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.
- h. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable anchoring requirements for resisting wind forces.

### 3. Flood Plain Evaluation

- a. Upon receipt of an application for a permit regarding subdivision approval within the flood plain district, the Watonwan County Zoning Office shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures

consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements For Flood Plain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

- b. The Zoning Administrator shall submit one (1) copy of all information required by Section (a) above to the Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of the permit by the county. The Zoning Administrator shall notify the Area Hydrologist within ten (10) days after a permit is granted.

#### **E. Utilities, Railroads, Roads and Bridges in the Flood Plain District**

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with State Flood Plain Management Standards contained in Minnesota rules 1983 Parts 6120.5000 - 6120.6200.

#### **F. Subdivisions**

1. No land shall be subdivided where the site is determined to be unsuitable by the Watonwan Planning Commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The Planning Commission shall review the subdivision proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.
2. In the Flood Plain District, applicants for subdivision approval shall provide the information required in Section D, #3 of this chapter. The Zoning Administrator shall evaluate the proposed subdivision in accordance with the standards established in Section D, #2 and #3 and Section E of this chapter.
3. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
4. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

#### **G. Administration**

1. Zoning Administrator. A Watonwan County Zoning Administrator or designee shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section J of this Ordinance.
2. Permit Requirements.
  - a. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
  - b. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
  - c. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
  - d. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
3. Board of Adjustment.
  - a. Powers, duties, and hearing processes are specified in Section 18 of this Ordinance. In addition, all variance requests shall be forwarded to the Commissioner of Natural Resources at least ten (10) days prior to the hearing.
  - b. Variances from the provisions of this ordinance may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this ordinance. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.
  - c. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the variance applicant that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and (2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all

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

4. Conditional Uses. See section 14 for information regarding the application and hearing schedule for conditional use permits. Conditional use permit applications shall be forwarded to the Commissioner of Natural Resources at least ten (10) days prior to the hearing.

#### **H. Nonconforming Uses**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
  - a. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
  - b. An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.
  - c. The cost of any structural alterations or additions, both inside and outside, to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this chapter are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Section D of this chapter or new structures.
  - d. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.
  - e. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The Planning Commission may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this ordinance.

## **I. Penalties for Violation**

1. Violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
2. Nothing herein contained shall prevent Watonwan County from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:
  - a. In responding to a suspected ordinance violation, the Zoning Administrator and County Board may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance program for denial of flood insurance availability to the guilty party.
  - b. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the county's plan of action to correct the violation to the degree possible.
  - c. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the county. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.
  - d. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Section.

## **J. Amendments**

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he/she determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider any amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

## **K. Travel Trailers and Travel Vehicles**

Travel trailers and travel vehicles that do not meet the exemption criteria specified in #1 below shall be subject to the provisions of this chapter and as specifically spelled out in #3 and #4 below.

1. Exemption. Travel trailers and travel vehicles are exempt from the provisions of this ordinance if they are placed in any of the areas listed in #2 below and further they meet the following criteria:
  - a. have current licenses required for highway use;
  - b. are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it; and
  - c. the travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.
2. Areas Exempted for Placement of Travel/Recreational Vehicles.
  - a. Individual lots or parcels of record
  - b. Existing commercial recreational vehicle parks or campgrounds
3. Travel trailers and travel vehicles exempted in #1 lose this exemption when development occurs on the parcel exceeding five hundred dollars (\$500) for a



structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Section D of this chapter.

4. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and the expansion of any existing similar use exceed five (5) units or dwelling sites shall be subject to the following:
  - a. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Section D, #3 of this chapter and properly elevated road access to the site exists in accordance with Section D of this chapter. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
  - b. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section D, #2 (g) of this Ordinance.

## Section 12 - General Provisions

### A. Sign Regulations

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

#### 1. General Provisions

The following regulations shall apply to all signs hereinafter permitted in all Districts.

- a. Signs shall not be permitted within the public right-of-way or easements, except as erected by an official unit of government or public utility for the direction of traffic or necessary public information.
- b. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
- c. Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be repainted when required to be kept in good condition and shall be repainted, removed, or painted out when, in the opinion of the Board of County Commissioners, they are not so maintained.
- d. No sign shall be placed that resembles any official marker erected by a governmental agency or shall display such words as “stop” or “danger.”
- e. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.
- f. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass and weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which sign is located.
- g. Advertising signs, business signs and nameplate signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice of the Board of County Commissioners.
- h. Where a sign is illuminated, the source of light shall not shine upon any part of a residence or into any Residential District or any roadway.
- i. No advertising or business sign shall be permitted in any Residential District, except signs advertising a permitted home occupation limited to an overall area of twelve (12) square feet per surface.
- j. Except with industry, signs shall not be painted directly on the outside wall of a building.

- k. Signs shall not be painted on fences, rocks, or similar structures or features; nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.
- l. Symbols, statues, sculptures, and integrated architectural features on buildings may be illuminated by floodlights provided the source of light is not visible from a public right-of-way or adjacent property.
- m. Any sign over one-half (1/2) square foot shall be set back at least ten (10) feet from any property line. Signs may be illuminated but such lighting shall be diffused or indirect and not illuminated beyond any lot line.

## 2. Special and Temporary Signs

- a. One (1) identification sign not exceeding thirty-five (35) square feet in area for the following uses: church, school, hospital, parks and recreation areas or similar uses. Such signs shall be solely for the name of the use and its activities and may be illuminated, but not flashing.
- b. Temporary signs advertising a new subdivision development, commercial area, or industrial area are limited to the following: (1) maximum size shall be ninety-six (96) square feet in surface; and (2) maximum height of fifteen (15) feet above ground level.
- c. For the purpose of selling, renting or leasing a single parcel, a sign not in excess of twenty-five (25) square feet per surface may be placed within the front yard. Such signs shall not be less than ten (10) feet from the right-of-way line.
- d. Election signs are permitted provided such signs are removed within ten (10) days following the election as related to the sign. No election signs shall be permitted more than one (1) month preceding the election the sign relates to.
- e. There shall be no more than one (1) temporary sign on any lot and such sign shall not exceed twenty-five (25) square feet in size.
- f. Temporary signs, signs of non-profit organizations and the like shall require a permit, but no fee will be required.

## 3. Advertising Signs and Billboards

- a. Advertising signs shall be limited to no more than two (2) signs per facing or total of no more than four (4) signs per structure.
- b. Advertising signs shall be limited to not more than fifty-five (55) feet in total length and a height of twenty (20) feet above average grade.
- c. Advertising signs shall be limited to an overall surface area on one side to eight hundred fifty (850) square feet.
- d. No advertising sign structure shall be located within a radius of one thousand (1,000) feet of any existing advertising sign unless located in a Business or Industry District. Signs will then be limited to not more than one (1) for a lot of one hundred (100) feet frontage and to only one (1) per each additional one hundred (100) feet of frontage.

- e. No advertising sign shall be located within one hundred (100) feet of a dwelling, an adjoining residential district, an at-grade intersection of two (2) or more roads or an at-grade intersection of any road and a railroad.
- f. No advertising sign shall be permitted within ten (10) feet of a road or highway right-of-way.

#### 4. Business Signs

- a. No more than one (1) freestanding or pylon sign or not more than thirty-five (35) square feet in surface area.
- b. The total surface area of all business signs on a lot shall not exceed the sum of three (3) square feet per lineal foot of lot frontage or twenty percent (20%) of the front building surface area on which the sign is located or three hundred (300) square feet in surface area, whichever is greater.
- c. Business signs shall be limited to an overall height of forty (40) feet above average road grade.

#### 5. Signs Permitted with Residences

- a. One (1) nameplate sign for each dwelling not to exceed two (2) feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.
- b. One nameplate sign for each dwelling group of six (6) or more units. Such sign not to exceed six (6) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.
- c. One (1) nameplate sign for each permitted non-residential use or use by conditional permit. Such signs shall not exceed twelve (12) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.
- d. Symbols, statues, sculptures, and integrated architectural features on buildings may be illuminated by floodlights provided the source of light is not visible from a public right-of-way or adjacent property.
- e. Any sign over one-half (1/2) square foot shall be set back at least ten (10) feet from any property line. No sign shall exceed the ten (10) feet in height above the average grade level. Signs may be illuminated, but such lighting shall be diffused or indirect and not illuminatd beyond any lot line.

#### 6. Signs Permitted with Industries

- a. The aggregate square footage of sign space per lot shall not exceed the sum of four (4) square feet per front foot of building, plus one (1) square foot per front foot of property not occupied by a building. No individual sign surface shall exceed one hundred (100) square feet except advertising signs. Advertising signs permitted as an accessory use shall not exceed four hundred eighty (480) square feet of sign surface and such sign when permitted as a

principal use shall not exceed the sum of five (5) square feet per front foot of lot up to a maximum of four hundred eighty (480) square feet.

- b. No ground sign shall exceed a height of forty (40) feet above the average grade and no roof sign or sign attached to a building shall exceed a height of thirty (30) feet above the highest outside wall or parapet of any principal building. No sign shall be located closer than ten (10) feet from any lot line.

## 7. Sign Removal

- a. Any advertising device lawfully erected before the date of enactment of this Ordinance, and not conforming to the provisions thereof with respect to distance, spacing, or location, shall be removed by its owner within three (3) years of the effective date of this Ordinance.
- b. If two (2) or more advertising signs erected before the date of enactment of this Ordinance are in violation of the spacing requirements as herein provided, the Administrator shall notify the owners of such devices and give such owners full opportunity to be heard. He/she shall thereafter make a finding as to the date of erection of each of the devices. The device or devices last erected shall be deemed nonconforming and shall be removed by the owner or owners within three (3) years of the effective date of this Ordinance.

## 8. Prohibited Locations

From and after the date of enactment of this Ordinance, no advertising sign shall be erected or maintained

- a. which would prevent any traveler on any thoroughfare from obtaining a clear view of approaching vehicles on the same for a distance of five hundred (500) feet along the thoroughfare.
  - b. which would be closer than three hundred (300) feet from the intersection of any thoroughfare at grade with another thoroughfare, or with a railroad; provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.
  - c. in or within five hundred (500) feet of national parks, state parks, local parks, historic sites, and public picnic or rest areas;
  - d. within one hundred (100') feet of a church or school;
  - e. within three thousand (3000') feet of any other advertising sign on the same side of a public road;
  - f. refer to the shoreland overlay district standards and the flood plain overlay district standards to determine signage regulations in their respective districts.
9. Alleys, undeveloped rights-of way, private roads and driveways shall not be regarded as intersecting. Streets, roads or thoroughfares which enter directly into the main traveled way of the primary thoroughfare shall be regarded as intersecting.

## **B. Parking and Loading Regulations**

All parking hereafter constructed or maintained shall conform with the provisions of this Subdivision and any other Ordinances or Regulations of Watonwan County.

### **1. Minimum Size Regulations**

Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than eight and one-half (8 ½) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicle they are designed to serve. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.

### **2. Reduction and Use of Parking and Loading Space**

On-site parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

### **3. Computing Requirements**

In computing the number of such parking spaces required, the following rules shall govern:

- a. Floor space shall mean the gross floor area of the specific use.
- b. Where fractional spaces result, the parking spaces required shall be constructed to be the nearest whole number.
- c. The parking spaces requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Board of County Commissioners and the County Planning Commission.
- d. In places of public assembly in which patrons occupy benches, pews or similar facilities, each twenty-two (22) inches of such seating facility shall be counted as one (1) seat for the purposes of determining requirements.

### **4. Yards**

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

- a. in the “B” General Business District no parking or loading space shall be located within ten (10) feet of any property line that abuts a road or highway right-of-way or any Residential, Agriculture, or Shorelands District.

- b. in the “I” General Industry Districts no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any Residential, Agriculture or Shorelands District, except for railroad loading areas.

5. Buffer Fences and Planting Screens

On-site parking and loading areas near or abutting Residential or Shorelands District shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the required site or plot plan, and as a part of the initial construction.

6. Access

- a. Parking and loading space shall have proper access from a public right-of-way.
- b. The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required, when in the opinion of the County Planning Commission, such service roads are necessary to maintain traffic safety.
- c. Vehicular access to business or industrial uses across property in any Residential District shall be prohibited.

7. Location of Parking Facilities and Combined Facilities

Required on-site parking space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more buildings or uses in the “B” General Business District and in the “I” General Industry District, provided that the total number of spaces shall equal the sum of the requirements for each building or use.

8. Construction and Maintenance

- a. In the “B” General Business District and the “I” General Industry District, parking areas and access drives shall be covered with a dust free, all weather surface or an adequate gravel base with proper surface drainage, as required by the County Engineer.
- b. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

9. Lighting

Lighting shall be reflected away from the public right-of-way and nearby or adjacent Residential, Shorelands, or Agriculture Districts.

## 10. Required Site Plan

Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing on-site parking and loading space to be provided in compliance with this Ordinance.

## 11. Required Number of On-site Parking Spaces

On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. An adequate number of parking stalls for handicapped persons shall be designated and reserved for handicapped use only. The minimum number of required on-site parking spaces for the following uses shall be as follows:

- a. Single Family Dwelling - two (2) parking spaces. No garage shall be converted into living space unless other acceptable on-site parking space is provided.
- b. Multiple Dwelling or Manufactured Home Park - two (2) parking spaces per dwelling unit.
- c. Churches - one (1) parking space for each three (3) seats, based on the design capacity of the main seating area.
- d. Hospitals - one (1) parking space for each two (2) hospital beds plus one (1) parking space for each employee on the major shift.
- e. Convalescent, Rest or Nursing Homes - one (1) parking space for each four (4) beds for which accommodations are offered.
- f. Public Elementary, Junior High School or similar Private School - two (2) parking spaces for each classroom.
- g. Municipal Administration Buildings, Community Center, Public Library, Museum, Art Galleries, Post Office and other Public Service Buildings - one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- h. Golf Courses, Golf Clubhouse, Country Club, Swimming Club, Tennis Club, Public Swimming Pool - twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principal structure.
- i. Medical and Dental Clinics, Animal Hospital - one (1) parking space for each five hundred (500) square feet of floor area.
- j. Professional Offices and Office Buildings - at least one (1) parking space for each three hundred (300) square feet of floor area.
- k. Shopping Center - where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three (3) square feet of gross parking area for each one (1) square foot of floor area; separate on-site space shall be provided for loading and unloading.
- l. Automobile Service Station - four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.



- m. Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales, Garden Supply Store, Building Materials Sales, Auto Repair - six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
- n. Bowling Alley - five (5) parking spaces for each bowling lane.
- o. Drive-in Restaurant, Dairy Store or Similar - twenty (20) parking spaces or one (1) space for each thirty-five (35) square feet of floor area, whichever is greater.
- p. Motel or Motor Hotel - one (1) parking space for each rental room or suite and one (1) space for each employee on any shift.
- q. Assembly or Exhibition Hall, Auditorium, Theater or Sports Arena - one (1) parking space for each three (3) seats, based upon design capacity.
- r. Restaurant, Cafe, Nightclub, Tavern or Bar - one (1) parking space for each seventy-five (75) square feet of customer floor area.
- s. Retail Stores and Service Establishments - one (1) parking space for each one hundred (100) square feet of customer floor area.
- t. Research, Experimental or Testing Stations - one (1) parking space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is greater.
- u. Storage, Wholesale or Warehouse Establishments - one (1) parking space for each two (2) employees on the major shift or one (1) parking space for each two thousand (2,000) square feet of floor area, whichever is greater, plus one (1) space for each company vehicle when customarily kept on the premises.
- v. Manufacturing or Processing Plant - one (1) off-street parking space for each employee on the major shift or one (1) off-street parking space for each three hundred fifty (350) square feet of gross floor area within the building, whichever is greater.

## 12. Off-Street Loading

### a. Purpose

The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

### b. Number of Loading Berths

Required loading berths, in connection with any structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles and which will have a gross floor area of five thousand (5,000) square feet or more there, shall be provided off-street loading space on the basis of the following minimum requirements:

Square Feet of Aggregate <u>Gross Floor Area</u>	<u>Minimum Required Number of Berths</u>
5,000 up to and including 6,000	1
16,000 up to and including 40,000	2
40,000 up to and including 70,000	3
70,000 up to and including 100,000	4
For each additional 40,000	1 additional

**C. Sanitary Provisions**

All water systems hereafter constructed or reconstructed shall conform with the provisions of Minnesota Department of Health and the Minnesota Pollution Control Agency’s 7080- 7081 Rules, which are hereby adopted by reference.

1. Water Systems

- a. Public water facilities, including pipe fittings, hydrants, etc. shall be installed and maintained as required by standards and specifications as established by the Board of County Commissioners and the Minnesota Department of Health Standards for water quality.
- b. Where public water facilities are not available, the Board of County Commissioners may, by ordinance, grant a franchise for such water facilities to serve all properties within the area where a complete and adequate community water distribution system is designed and complete plans for the system are submitted to and approved by the Board of County Commissioners and the Minnesota Department of Health.
- c. Individual wells shall be constructed and maintained according to standards and regulations approved by the Board of County Commissioners and the Minnesota Department of Health.
- d. Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be flood proofed in accordance with procedures established in Statewide Standards and Criteria for the Management of Flood Plain Areas of Minnesota.

2. Licensing

Before any license issued under the provisions of this Section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such license should not be removed or refused. Notice of the time, place and purpose of such hearing shall be in writing. The annual license fee shall be established by the County Board of Commissioners. Application for such license shall be made annually on a form furnished by the County Building Inspector.

## **D. Extraction of Materials and Minerals, Open Pits and Impounding of Waters**

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

### **1. Definition**

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

### **2. Conditional Use Permit Required**

Excavations, extraction of materials and minerals, open pits and impounding of water shall be permitted only upon the issuance of a Conditional Use Permit. The applicant for the permit shall furnish such information as this: true name and address, when required, approval by the State of Minnesota to impound waters, purpose of proposed activity, roads and highways to be used to haul material to or from the area of activity, and the estimated time when building or removing will begin and be completed.

### **3. Conditions of Permit**

The Board of County Commissioners, as a prerequisite to the granting of a permit or after a permit has been granted, may require the applicant to whom such permit is issued or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

- a. properly fence any pit or excavation;
- b. slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks;
- c. properly drain, fill or level any pit or excavation, after created so as to make the same safe and healthful as the Board shall determine;
- d. keep any pit, excavation or impounded waters within the limits for which the particular permit is granted;

- e. remove excavated material from any pit or excavation away from the premises, upon and along such highways, streets or other public ways as the Board shall order and direct;
- f. provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition; and
- g. grade site after extraction is completed so as to render it suitable, seeding where required to avoid erosion and unsightly marks on the landscape.

**E. Performance Standards**

It is the intent of this Subdivision to provide that uses of land and buildings in All Classes of Business and Industry Districts shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:

1. Standards

- a. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a slightly and well kept condition. Yards adjoining any residences shall be landscaped with buffer planting screens. Screening plans shall be submitted for approval as a part of the site plan and installed prior to occupancy of any tract in the district. (See Subsection K for fencing and screening provisions.)
- b. Exterior Lighting. Any lights used for exterior illumination shall be diffused, hooded or directed away from adjoining properties and public streets.
- c. Water Pollution. All uses shall conform to the water pollution standards and controls enforced by Watonwan County and those adopted by the Minnesota Pollution Control Agency and other agencies and governing bodies which have such powers and controls.
- d. Hazard. Every use established, enlarged or remodeled shall be operated with reasonable precautions against fire and explosion hazards.

2. Compliance

In order to insure compliance with the performance standards set forth above, the Board of County Commissioners may require the owner or operator of any permitted or conditional use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization that may be selected by the County.

The following standards apply to all uses in all Districts except where indicated.

### 3. Height Regulations

- a. There shall be a maximum height limitation of one hundred fifty (150) feet on all structures within the County. Any tower, spire, etc. that exceeds this height must be granted a Conditional Use Permit (Section 13) and then only after obtaining a letter of clearance from the Federal Aeronautics Administration and the Airport Commission for any airport located within ten (10) miles of the structure proposed to exceed the height limitation.
- b. Height limitation set forth in other Sections of this Ordinance may be increased by one hundred percent (100%) when applied to the following:
  - 1) monument
  - 2) flag poles
  - 3) cooling towers
- c. Height limitations set forth in other Sections of this Ordinance may be increased with no limitation except as noted in the paragraph above when applied to the following:
  - 1) church spires, belfries or domes which do not contain usable space
  - 2) water towers
  - 3) chimneys or smokestacks
  - 4) radio or television transmitting towers
  - 5) grain elevators

### 4. Yard Regulations

Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:

- a. Cornices, canopies or eaves may extend into the required front yard a distance not exceed four (4) feet, six (6) inches.
- b. Fire escapes may extend into the required front yard a distance not to exceed four (4) feet, six (6) inches.
- c. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing, no higher than three (3) feet, six (6) inches, may be placed around such place.
- d. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.
- e. A wall, fence or hedge may occupy part of the required front, side or rear yard.
- f. On double frontage lots, the required front yard shall be provided on both streets.
- g. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a road or public roadway by obscuring the view.

- h. The required front yard of a corner lot shall be unobstructed above a height of three (3) feet in a triangular area, two sides of which are the lines running along the shoulder road lines between the road intersection and a point fifty (50) feet from the intersection, and the third side of which is the line between the latter two points.

5. Storage of Materials

- a. In the Business and Industrial District, open storage of materials in any required front, side or rear yard shall be prohibited. Any other outdoor storage shall be located or screened so as not to be visible from any Residential District.
- b. In all Residential Districts, all materials and equipment shall be stored within a building or structure or fully screened so as not to be visible from adjoining properties, except for the following:
  - 1) usable laundry equipment
  - 2) recreational equipment
  - 3) construction and landscaping material currently being used on the premises, provided it is kept in a neat and orderly manner and does not create a nuisance to adjoining property
  - 4) off-street parking of passenger vehicles and trucks

6. Accessory Buildings and Structures

- a. In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Ordinance applicable to the main building. An accessory building shall not be closer than five (5) feet to the main building, except as otherwise provided in this Ordinance.
- b. A detached accessory building shall not be located in any required front or side yard; however, a garage is allowed in a side yard provided all other provisions of this Ordinance are met.
- c. In a Residential District, no detached accessory building shall be more than one (1) or twelve (12) feet in height and shall not occupy more than thirty percent (30%) of the area of any rear yard, providing further that no detached accessory building shall be located within ten (10) feet of any rear lot line.
- d. In a Residential District, no underground gasoline storage shall be permitted.

**F. Planned Unit Development**

1. *Purpose*

The purpose of this Subdivision is to provide for the groupings of land parcels for development as an integrated, coordinated unit in a manner which emphasizes flexibility of design of land under single or unified ownership, developed with community or public sewer and water systems, and through clustering of buildings and activities. It is further intended that Planned Unit Developments are to be characterized by Central Management, integrated planning and architecture, joint or common use of parking, maintenance of open space, and other similar facilities, and a harmonious selection and efficient distribution of uses. Planned Unit Developments regulated under this Subdivision may be applied to Residential, Commercial or Industrial uses when in keeping with the regulations provided within this Ordinance.

## 2. *General Regulations*

- a. All PUDs will be processed as a Conditional Use.
- b. The minimum area of land to be included in a Planned Unit Development shall be ten (10) acres.
- c. The Planned Unit Development will be served by public or community water and sewer systems and may be increased in density to one and one-half (1 ½) times that permitted within the respective zoning district, except in Shoreland areas. Density increases in Shoreland areas are calculated in paragraph #4 below.
- d. The parking and similar requirements of these extra units shall be observed in compliance with this Ordinance.
- e. It is the intent of this Subdivision to require subdivision of property simultaneous with an application for a conditional use permit. The subdivision of land as a Planned Unit Development shall be the same as imposed in the respective district. Lots shall be designed so as to allow at least fifteen (15) feet between structures.
- f. The front, side yard and shoreland restrictions at the periphery of the Planned Unit Development site, at a minimum, shall be the same as imposed in the respective districts. Lots shall be designed so as to allow at least fifteen (15) feet between structures.
- g. Private roadways within the project shall have an improved surface to twenty (20) feet or more in width. No portion of the required twenty (20) feet road system may be used in calculating required off-street parking space.
- h. In the shoreland area, approval of the development cannot occur until the Environmental Review Process (EAW/EIS) is complete.

## 3. *Administrative Procedure*

- a. The proponents of a Planned Unit Development shall submit a preliminary subdivision plat and development plan, along with an application for a conditional use permit. The preliminary plat shall conform to the provisions of this Ordinance

and the Subdivision Ordinance. The development plan shall be drawn to a scale of not more than fifty (50) feet per inch, showing the following:

- 1) the existing and proposed topography with contour intervals not greater than two (2) feet;
  - 2) the entire outline, overall dimensions and area of the tract described in the application;
  - 3) proposed public or community sewer and water system, including size, type and capacity;
  - 4) proposed roadway, type and capacity of paving;
  - 5) the proposed site and existing adjacent developments;
  - 6) size and location of buildings;
  - 7) landscaping;
  - 8) parking areas and arrangement of stalls;
  - 9) allocation and disposition of park and open space;
  - 10) site and lot dimensions;
  - 11) type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two family units;
  - 12) location, type and signing;
  - 13) If the PUD is proposed in a shoreland area, the following information will also be required:
    - a. surface water features;
    - b. land alterations;
    - c. demonstrate that a property owners' association will be drawn up with mandatory membership;
    - d. demonstrate that deed restrictions, covenants, permanent easements, or some other legal instrument will be employed to:
      - i. properly address future vegetative and topographic alterations, construction of additional buildings, or the beaching of watercraft; and:
      - ii. ensure the long term preservation and maintenance of open space in accordance with paragraph #5 below.
  - 14) Those additional documents as requested by the Watonwan Planning Commission or County Board.
- b. If the conditional use permit for the preliminary plat and site plan is approved, the preliminary plat and the site plan shall be attached to and become a part of the conditional use permit. Any modification to the preliminary plat or site plan will require a resubmission to, and approval by, the County Planning Commission and the County Board.



- c. If the conditional use permit is approved, the final plat shall be submitted to the County in accordance with the County Subdivision Regulations and the provisions of this Ordinance.

4. *Density Bonus for Developments in Shorelands*

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation below.

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

Shoreland Tier Dimensions

	<u>Sewered (feet)</u>
Recreational Development Lakes	267
Natural Environment Lakes	320
All River Classes	300

The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to the residential planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

- b. Residential PUD “BASE” Density Evaluation. The suitable area within each tier is divided by the single residential to size standard for the appropriate district which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in #5 below.
- c. Commercial PUD “Base Density Evaluation
  - 1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development  
Floor Area Ratios \*  
Public Waters Classes

*Average Unit Floor Area (sq. ft.)	Agricultural and Tributary River Segments	Recreational Development Lakes	Natural Environment Lakes
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1000	0.108	0.054	0.027
1100	0.116	0.058	0.029
1200	0.125	0.064	0.032
1300	0.133	0.068	0.034
1400	0.142	0.072	0.036
1500	0.150	0.075	0.038

- For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet.. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet.
- 2) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
  - 3) Divide the total floor area by tier computed in Item 2 above by the average inside living area size determined in Item I above. This yields a base number of dwelling units and sites for each tier.
  - 4) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria below.

d. Density Increase Multipliers

- 1) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 11, C, #4 are met or exceeded and the design criteria in #5 below are satisfied. The allowable density increases in Item #2 below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty percent (50%) greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit

of government and the setback is at least twenty-five percent (25%) greater than the minimum setback.

2) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential Planned Unit Developments:

<u>Density Evaluation Tiers</u>	<u>Maximum Density Increase Within Each Tier (percent)</u>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

5. Maintenance and Administration Requirements in the Shoreland District

- a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- b. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
  - 1) commercial uses prohibited (for residential PUDs);
  - 2) vegetation and topographic alterations other than routine maintenance prohibited;
  - 3) construction of additional buildings or storage of vehicles and other materials prohibited; and
  - 4) uncontrolled beaching of watercraft prohibited.
- c. Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners' association with the following features:
  - 1) membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
  - 2) each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
  - 3) assessments must be adjustable to accommodate changing conditions; and
  - 4) the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

6. Open Space Requirements. Planned Unit Developments in shoreland areas must contain open space meeting all of the following criteria:
  - a. At least fifty percent (50%) of the total project area must be preserved as open space.
  - b. Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas, or structures, except water oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
  - c. Open space must include areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.
  - d. Open space may contain water oriented accessory structures or facilities.
  - e. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
  - f. The Shore Impact Zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state.
  
7. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:
  - a. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
  - b. be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five percent (25%) of the tier area.
  
8. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:

- a. Planned unit developments must be connected to publicly owned water supply and sewer systems.
- b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with # 4C above in this Section for developments with density increases.
- c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- e. Accessory structures and facilities, except water oriented accessory structures, must meet the required principle structure setback and must be centralized.
- f. Water oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 10, C. #6 of this Ordinance and are centralized.

9. Property Control in Non-Shoreland Areas

- a. In order that the purposes of this subdivision may be achieved, the property shall be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Ordinance.
- b. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment or common area, a declaration of covenants, conditions and restrictions or an equivalent document shall be filed with the Zoning Administrator for approval as part of the Conditional Use Permit, prior to filing of said declaration or document with the recording officer of Watonwan County.
- c. The declaration of covenants, conditions and restrictions or equivalent documentation shall specify that deeds, leases or documents of conveyance

affecting buildings, units, apartments shall subject said properties to the terms of said declaration.

- d. The declaration of covenants, conditions and restrictions shall provide that an owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the County Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
- e. The declaration shall additionally provide that, in the event the association or corporation fails to pay taxes or assessments on properties as they become due, then Watonwan County shall have the right to assess each property its pro rata share of said expenses. Such assessment, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made and, in addition, each such assessment, together with such interest thereon and such cost of collection thereon, shall also be a personal obligation of the person who was the owner of such property at the time when the assessment becomes payable.

## **G. Group Gatherings**

### 1. Purpose

It is the intent of this Subdivision to provide for the regulation of group gatherings and assemblages of people and to specify the requirements and circumstances under which group gatherings may be allowed.

### 2. General Requirements

- a. Permit Required. A separate permit shall be required for each day and each location the mass gathering will be held. The fee for each permit shall be established by the County Board and shall accompany the application.
- b. Application shall be on a form furnished by the Health Authority at least thirty (30) days in advance of the proposed gathering.
- c. Each group gathering area shall be well drained and so arranged as to provide sufficient space for people assembled, vehicles, sanitary facilities, and appurtenant equipment.
- d. Illumination shall be provided at night to protect the safety of the persons at the assembly. The assembly area shall be adequately lighted but shall not unreasonably reflect beyond the assembly area boundaries, unless adjacent properties be uninhabited. Light level intensities shall be at least five (5) foot candles.

- e. If it is expected that people in attendance will stay upon the grounds overnight, the arrangements must be made as follow:
  - 1) Recreational camping vehicles must be situated such that no part of the vehicle is closer than ten (10) feet to another vehicle or structure and no vehicle is blocked from exiting the site.
  - 2) Tents must be situated such that no part of the tent is closer than ten (10) feet to another tent, vehicle, or structure.
- f. An adequate, safe supply of potable water, easily accessible and meeting the requirements of the Health Authority and the Minnesota Water Well Construction Code, shall be provided.
- g. Separate, enclosed sanitary facilities for males and females shall be provided and installed in the minimum numbers as required by the following schedule:
  - 1) Toilets at the rate of one (1) for each one hundred (100) persons or fractional part thereof. These sanitary facilities shall be conveniently accessible and well identified. Hand washing facilities, approved by the Minnesota Department of Health, shall be provided adjacent to each toilet site.
  - 2) Portable privies may be used if no permanent facilities are present. Arrangement must be made for the final disposal of the sewage into adequate facilities approved by the Health Authority.
- h. Refuse Disposal
  - 1) The storage, collection, transportation, and disposal of refuse shall be conducted as to prevent odor, insect, rodent, and other nuisance conditions.
  - 2) One fifty (50) gallon refuse container, or its equivalent, shall be provided for each one hundred (100) persons anticipated. Refuse containers shall be conveniently accessible.
  - 3) All refuse shall be collected from the assembly area at least once each day of the assembly and disposed of at a sanitary landfill.
  - 4) The grounds and immediate surrounding properties shall be cleaned of refuse within twenty-four (24) hours following the assembly.
- i. In addition to the requirements contained herein, the operator must comply with all other applicable State and/or Local regulations or ordinances.

## **H. Auto Salvage Regulations**

It is the intent of this subsection to provide for the regulation of Salvage Yards in the County and to establish performance standards designed to meet, or exceed best management practice standards set for the Salvage Yard industry.

1. Designated storage areas shall be screened by means of berms, fencing, or landscaping to reduce direct visibility from public roads or dwellings located on adjacent lots. Screening shall be completed within ninety 90 days from receipt of such notice from the Zoning Administrator. Screening will be maintained and improved as necessary to continue to perform the function of its design.
2. The Salvage Yard site shall be setback a minimum of 100 feet from a residentially zoned area, any public water body, stream, creek, public or private ditch. Every Salvage Yard shall also be required to obtain and maintain a storm water permit from the MPCA.
3. The area upon which the business activity is located must be a contiguous area within the owner's parcel and must meet all yard setback and screening provisions herein. The owner/operator shall be restricted from converting all or part of the Salvage Yard parcel into rental property.
4. Vehicle Storage
  - a. All vehicles must remain upright unless the motor and running gear has been removed;
  - b. No new vehicle storage nor any business operation is permitted in any floodplain area, wetland, or in areas where groundwater is less than three (3) feet from the ground surface.
5. Setbacks for new structures. All structures will conform to yard setbacks as established in this Ordinance. However, no fencing is permitted in the front yard nor is the storage of any autos. Additionally, all autos must be setback at least ten (10) feet from the rear and side property lines.
6. Any parcel of property having five or more unlicensed automobiles shall be required to meet all requirements set forth in Section 12 of the Watonwan County Ordinance.
7. The Conditional Use Permit Application must be accompanied by the following information:
  - a. site plan which includes the location of buildings and auto storage area and all applicable linear dimensions;
  - b. screening plans;
  - c. signage plan which conforms to Section 13, Subdivision A;



d. a management plan which conforms to MPCA guidelines and addresses the handling and storage of any or all of the following:

- 1) motor oils and/or fuel;
- 2) CFCs and refrigerants
- 3) waste tires
- 4) catalytic converters
- 5) mercury switches
- 6) lead parts
- 7) Auto or other motorized vehicle batteries;
- 8) antifreeze and window-washing fluids
- 9) any other substance as requested by the Zoning Administrator

e. Copies of the following items must be submitted and kept up to date in the Zoning Administrators office.

- 1) EPA notification of regulated waste activity form
- 2) MPCA hazardous waste license
- 3) Storm water permit notification form

## 8. Compliance

- a. All existing Salvage Yards shall comply with the provisions cited herein within two (2) years of the passage of this ordinance.
- b. The Conditional Use Permit for such a business terminates with a change in ownership. The new owner must reapply for a conditional use permit addressing all of the requirements listed in this section.

## I. Recreational Vehicle Campground Regulations

### 1. Purpose

It is the intent of this subsection to provide development standards for recreational vehicle campgrounds.

### 2. Conditional Use Permit

The establishment of a recreational vehicle campground as defined in section 4 requires a conditional use permit.

### 3. General Provisions

- a. Every person, organization or community establishing or having control of a recreational camping area shall locate such camp on an adequate site. Each camp shall be provided with satisfactory water supply and toilet and refuse disposal facilities. Fish cleaning houses shall be installed where needed.
- b. An applicant for a recreational camping area conditional use permit shall submit a general development plan for the proposed park including the following:
  - 1) the proposed site and existing development;
  - 2) proposed size, location and arrangement of buildings;
  - 3) parking areas and stall arrangements;
  - 4) entrance and exit drives;
  - 5) proposed sewer and water system; and
  - 6) recreation areas.

### 4. Caretaker

A responsible attendant or caretaker shall be in charge of every recreational camping area at all times and the duties of said attendant or caretaker shall be to maintain records of the park and keep the facilities and the equipment in a clean, orderly and sanitary condition. The caretaker or attendant shall be the owner or operator of the camping area or his/her appointed representative.

### 5. Recreational Camping Area Location

No recreational camping area shall be so located that the drainage from the park or camp area will endanger any water supply. All such camps shall not be located in an area subject to flooding. No waste water from recreational camping vehicles shall be deposited on the surface of the ground.

### 6. Recreational Camping Area Spacing Requirements

In recreational camping areas, recreational camping vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings, carports or individual storage facilities shall, for the purpose of this separation requirement, be considered to be part of the recreational camping vehicle. A site size appropriate to meet all spacing requirements shall be provided for each recreational camping vehicle in camping areas. All recreational camping vehicles shall be located at least one hundred (100) feet from any camping area property boundary line abutting upon a public street or highway and at least eighty (80) feet from other park property boundary lines. Recreational vehicle

campground sites must meet structure setback requirements from the ordinary high water mark of public waters.

## 7. Water Supply

Every recreational vehicle camp shall be provided with an adequate water supply system, the location, construction and operation of which complies with the standards referenced in this ordinance.

## 8. Toilets

- a. Every recreational vehicle camp shall be provided with adequate toilet facilities or privies. Water flush toilets shall be provided wherever a municipal sewage system can be operated and where water under pressure is available for the operation of water flush toilets. When a central building with water under pressure is provided, the ration of fixtures to tent sites shall be as follows:
  - 1) One wash basin for each ten (10) sites
  - 2) One lavatory for each ten (10) sites
  - 3) One shower for each fifteen (15) sites.
- b. There shall not be less than one (1) complete set of fixtures for each sex. Privies of the sealed concrete type shall be used where no municipal sewage system is available or where conditions are such that a sewage disposal system cannot be operated satisfactorily or water under pressure is not available. Such privies shall be located, constructed and operated in accordance with the standards of the State Board of Health and the MPCA. In shoreland areas, toilet facilities shall conform to setback standards cited in Section 10, subsection C, 4, d(#2). Toilet tissue shall be provided at each unit. Toilets shall be cleaned daily. All toilets and privies must be well ventilated and lighted. Artificial lighting shall be provided after daylight hours. Separate toilets or privies shall be provided for men and women. The location of all toilets shall be indicated by suitable signs. Facilities shall be identified by sign for each sex.
- c. When water flush toilets are used, a sewage disposal system acceptable to the State Board of Health and the MPCA shall be provided. Where water flush toilets are not provided, privies of the sealed concrete vault type which conform to a standard of construction acceptable to the State Board of Health and the MPCA shall be used. Toilets of the vault type hereinafter constructed shall be located at least fifty (50) feet from the nearest camp site.
- d. Whenever self-contained travel trailers, converted buses or trucks are accommodated, separate facilities for emptying the chemical toilets or reservoir tanks shall be provided in accordance with the standards of the State

Board of Health. All travel trailers, converted buses or trucks having sewage drains shall be connected to a sewage system or all drains shall be sealed for the duration of stay in the camping area. No post holes, shallow pits or buried metal drums shall be used for the disposal of liquid wastes.

#### 9. Liquid Waste Disposal

Liquid wastes from the camp sites and other sources shall be combined with the liquid toilet waste or shall be disposed of separately by soil absorption in a manner which will not endanger the water supply, pollute any surface water, or create nuisances or otherwise constitute a hazard to public health and safety. Liquid waste disposal facilities shall be constructed for each four (4) sites to receive dishwater and other liquid wastes.

#### 10. Garbage and Refuse Disposal

All garbage and refuse shall be stored and disposed of in a manner that will not create or tend to create a nuisance or provide a breeding place for flies. Garbage and refuse containers shall be constructed of nonabsorbent materials with tight fitting lids. All containers shall be washed at least once each week and sprayed with effective insecticides. Garbage or refuse containers shall be supplied for each four (4) campsites and shall be not more than two hundred (200) feet from the farthest site. Containers shall be emptied twice weekly or more often if required. Garbage and refuse may be disposed of by means acceptable to the County Board. Open refuse dumps are prohibited.

#### 11. Picnic Areas

Picnic areas shall be provided with suitable toilets or privies and refuse containers consistent with the usage demands. Such facilities shall be constructed in accordance with standards of the State Board of Health and the MPCA.

#### 12. Swimming Areas

Natural swimming areas shall be located only on lakes and streams which are relatively free from human, animal and industrial pollution and where swimming will not endanger the quality of a domestic water supply. Swimming areas shall be located at least seventy-five (75) feet (preferably one hundred fifty (150) feet) from boat docks or boat landing slips and shall be roped off by floats and cables to designate the safe limits of the swimming areas. Artificial swimming and wading pools shall be constructed in accordance with the standards of the State Board of Health.

#### 13. Special District Provisions

Any principal structure hereafter erected, constructed, altered, moved, or substantially renovated in any manner which includes in its function the providing of services or entertainment for residents or tourists shall be equipped with indoor toilet and running water (hot and cold) facilities, an adequate heating system based on floor area and occupancy criteria, and facilities for maintaining access routes where operated on a year 'round basis. Any permanent structure shall conform to the density requirements, lot standards and setbacks established in the underlying zoning district or the district overlay, if applicable. It shall be the responsibility of the Zoning Administrator to evaluate the adequacy of utilities using standards established by the Board of County Commissioners and the State Department of Health.

## **J. Nuisance Standards**

### 1. Noise

Any use established will be operated so that any accompanying noise shall be muffled so as not to become objectionable due to interference, beat frequency, shrillness, or intensity. Noise generated by agricultural use shall be exempted.

### 2. Vibration

Any use creating periodic earth shaking vibration shall be prohibited if undue vibrations are perceptible beyond boundaries of the property on which the use is located. The standard shall not apply to vibrations created during the process of construction.

### 3. Glare

Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be directed at or illuminate adjacent properties.

### 4. Smoke and Particulate Matter

Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public safety, health, comfort or general welfare.

## **K. Fences and Screening**

### 1. General Provisions

- a. In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard consisting of grass, decorative stones, shrubs, or trees along all streets or an approved fencing plan.
- b. Front yards shall be kept clear of all structures, storage and off street parking. Except for driveways, the yard shall extend along the entire frontage of the lot and along both streets in the case of a corner lot.

## 2. Fencing

- a. Where any business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front, as determined by the Zoning Administrator.
- b. The screening required herein shall consist of a solid fence or wall at least seventy five percent (75%) opaque and shall not be less than five (5) feet nor more than six (6) feet in height, unless otherwise directed in this Ordinance or by the Planning Commission or County Board. The fence shall not extend to within fifteen (15) feet of any street or driveway opening onto a street. The screening shall be placed along the property lines or in case of screening along a street, twenty five (25) feet from the street right-of-way with landscaping, between the screening and the pavement.
- c. Fences over four (4) feet in height and with a security arm for barbed wire shall be permitted when needed for security reasons, as approved by the Zoning Administrator. Other fences shall require a Conditional Use Permit, unless such fencing is shown and described in a permit application for a project. Fencing shall be disregarded for the purpose of setback requirements.

## 3. Residential Fences

- a. Fences may be located on any lot line to a height of 3 ½ feet and a fence up to six (6) feet in height may be erected behind the nearest rear corner of the principal building.
- b. Should the rear lot line 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 3 ½ feet.

## 4. Vegetative Screening

- a. Required screening may consist of trees, shrubs, and berms, but shall not extend to within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines, or in case of screening along a street, twenty five (25) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the County Board may also be required in addition to or in lieu of fencing.
- b. The vegetative screening area shall be maintained in an attractive condition at all times.

## **L. Subsurface Sewage Treatment Systems**

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### **SECTION 1: Purpose**

The purpose of Section 12, subdivision L, of the Watonwan County Ordinance is to establish minimum requirements for regulation of Subsurface Sewage Treatment Systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.

### **SECTION 2: Intent**

It is intended by the County Board that Section 12, subdivision L, of the Watonwan County Ordinance will promote the following:

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Watonwan County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting surface and groundwater quality.
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

### **SECTION 3: Authority**

Section 12, subdivision L, of the Watonwan County Ordinance is adopted pursuant to MN Statutes, Chapter 115, Section 115.55; MN Statutes Chapter 145A, Sections 145A.01 through 145A.08; MN Statutes Chapter 375, Section 375.51; or successor MN Statutes, and MN Rules, Chapter 7080, Chapter 7081, Chapter 7082 and Chapter 7083 or successor Rules.

### **SECTION 4: Title**

Section 12, subdivision L, shall be known and may be cited and referred to as the "Watonwan County Subsurface Sewage Treatment Systems" or "SSTS" Ordinance.

### **SECTION 5: Rules**

1. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated

and unsewered unincorporated areas of Watonwan County incorporating by reference minimum standards established by MN Statutes and Administrative Rules of the Minnesota Pollution Control Agency,

2. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
3. Requirements for all SSTS permitted under the revised MN Rules, Chapters 7080, 7081, 7082 and 7083 to be operated under an approved management plan,
4. Standards for upgrade, repair, replacement, or abandonment of SSTS,
5. Penalties for failure to comply with these provisions,
6. Provisions for enforcement of these requirements, and
7. Standards which promote the health, safety and welfare of the public as reflected in MN Statutes Chapter 115, Sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82; and the Watonwan County Zoning Ordinance.
8. Statutes and Rules referenced in this Ordinance can be accessed to read or download at this website:  
<https://www.revisor.mn.gov/pubs/>

#### **SECTION 6: Definitions**

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

**Agency:** Minnesota Pollution Control Agency.

**As-Built:** Drawings and documentation specifying final in-place location, elevation, size and type of all system components.

**At-grade system:** a pressurized soil treatment and dispersal system where sewage tank effluent is dosed to an absorption bed that is constructed directly on original soil at the ground surface and covered by loamy soil materials.

**Authorized Representative:** Watonwan County Zoning Administrator or other qualified County Staff.

**Bedrock:** geological layers, of which greater than 50 percent by volume consist of un-weathered in-place consolidated rock or rock fragments. Bedrock also means weathered in-place rock which cannot be hand augered or penetrated with a knife blade in a soil pit.

**Bedroom:** for the sole purpose of estimating design flows from dwellings, an area or room that is designed or used for sleeping; OR

A room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination.

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

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.

**Certificate of Compliance:** A document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of the inspection.

**Certified Statement:** A statement signed by a certified individual, apprentice, or qualified employee under MN Rules Chapter 7083 certifying that the licensed business or qualified employee completed work in accordance with applicable requirements.

**Cesspool:** An underground pit, receptacle, or seepage tank that receives sewage directly from a point of discharge and leaches sewage into the surrounding soil, bedrock, or other soil materials. Cesspools include sewage tanks that were designed to be watertight, but subsequently leak below the designed operating depth.

**Chapter 7080:** MN Rules and Minnesota Pollution Control Agency Design Standards for Individual Subsurface Sewage Treatment Systems.

**Chapter 7081:** MN Rules and Minnesota Pollution Control Agency Design Mid-sized Subsurface Sewage Treatment Systems.

**Chapter 7082:** MN Rules and Minnesota Pollution Control Agency Requirements for Local ISTS Programs.

**Chapter 7083:** SSTS licensing and certification program, product registration program, and advisory committee.

**Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than 20 persons per day. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

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

**Compliance Inspection:** An evaluation, investigation, inspection, or other such process for the purpose of issuing a Certificate of Compliance or Notice of Non-compliance.

**County:** Watonwan County, Minnesota.

**County Board:** Watonwan County Board of Commissioners.

**Deleterious Material:** Any harmful or injurious substance.

**Department:** Watonwan County Land Management Office.

**Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.

**Dwelling:** Any building with provision for living, sanitary, and sleeping facilities.

**EPA:** United States Environmental Protection Agency.

**Failure to Protect Groundwater:** At a minimum, an SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; an SSTS with less than the required vertical separation distance, described in MN Rules Chapter 7080, Part 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Subdivision 15 of this Ordinance.

**Graywater:** Wastewater/sewage that does not contain toilet wastes.

**Graywater System:** A system that receives, treats, and disperses only graywater or other similar system as designated by the commissioner.

**Hazardous waste:** Any substance that, when discarded, meets the definition of hazardous waste in MN Statutes Chapter 116, Section 116.06, subdivision 11.

**Holding tank:** A tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under MN Statutes Chapter 115, Section 115.55.

**Imminent Threat to Public Health and Safety:** At a minimum an SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Subdivision 5 of this Ordinance.

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

**Industrial Waste:** Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

**LSTS:** A “large subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of 10,000 gallons per day or greater.

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

**Management Plan:** A plan that requires the periodic examination, adjustment, testing, and other operational requirements to meet system performance expectations, including a planned course of action in the event a system does not meet performance expectations.

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

**Mound System:** A soil treatment and dispersal system designed and installed such that all of the infiltrative surface is installed above grade, using clean sand between the bottom of the infiltrative surface and the original ground elevation, utilizing pressure distribution and capped with suitable soil material to stabilize the surface and encourage vegetative growth.

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

**Notice of Noncompliance:** A document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified under MN Rules Chapter 7080, Part 7080.1500.

**MPCA:** Minnesota Pollution Control Agency.

**Original Soil:** Naturally occurring soil that has not been cut, filled, moved, smeared, compacted, altered, or manipulated to the degree that the loading rate must be reduced from that associated with natural soil conditions.

**Periodically Saturated Soil:** The highest elevation in the soil that is in a reduced chemical state due to soil pores filled or nearly filled with water causing anaerobic conditions. Periodically saturated soil is determined by the presence of redoximorphic features in conjunction with other established indicators as specified in part MN Rules Chapter 7080, Part 7080.1720, subpart 5, items E and F, or determined by other scientifically established technical methods or empirical field measurements acceptable to the permitting authority in consultation with the commissioner.

**Privy:** An aboveground structure with an underground cavity meeting the requirements of MN Rules Chapter 7080, Part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a non-dwelling structure containing a toilet waste treatment device.

**Property Transfer:** The act of a party by which the title to property is conveyed from one party or entity to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely or conditionally, voluntarily or individually, by or without judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

**Pump Tank:** A tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under MN Statutes Chapter 115, Section 115.55.

**Redoximorphic Features:** A color pattern in soil, formed by oxidation and reduction of iron or manganese in saturated soil coupled with their removal, translocation, or accrual, which results in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color;

OR: A soil matrix color controlled by the presence of ferrous iron, Redoximorphic features are described in MN Rules Chapter 7080, Part 7080.1720, subpart 5, item F.

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

**Record Drawings:** A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

**Replacement:** The removal or discontinued use of any major portion of an ISTS and reinstallation of that portion of the system, such as reinstallation of a new sewage tank, holding tank, dosing chamber, privy, or soil dispersal system.

**Septage:** Solids and liquids removed from an SSTS, including solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets. Waste from Type III marine sanitation devices, as defined in Code of Federal Regulations, Title 33, Section 159.3, and material that has come into contact with untreated sewage within the past 12 months is also considered septage.

**Septic Tank:** Any watertight, covered receptacle that is designed and constructed to receive the discharge of sewage from a building sewer or preceding tank, stores liquids for a detention period that provides separation of solids from liquid and digestion of organic matter, and allows the effluent to discharge to a succeeding tank, treatment device, or soil dispersal system.

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

**Shop:** Any building more than 1000 square feet used for storage or repair that has a floor drain.

**SSTS:** Either an individual subsurface sewage treatment system (ISTS) as defined in subpart 45 or a midsized system as defined in MN Rules Chapter 7081, Part 7081.0020, subpart 4, as applicable.

**State:** State of Minnesota.

**Toilet Waste:** Waste commonly disposed of in toilets, including fecal matter, urine, toilet paper, and water used for flushing.

**Treatment Level:** Treatment system performance levels defined in MN Rules Chapter 7083, Part 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Table III

Level A:  $cBOD_5 \leq 15$  mg/L;  $TSS \leq 15$  mg/L; fecal coliforms  $\leq 1,000/100$  mL.

Level A-2:  $cBOD_5 \leq 15$  mg/L;  $TSS \leq 15$  mg/L; fecal coliforms N/A.

Level B:  $cBOD_5 \leq 25$  mg/L;  $TSS \leq 30$  mg/L; fecal coliforms  $\leq 10,000/100$  mL.

Level B-2:  $cBOD_5 \leq 25$  mg/L;  $TSS \leq 30$  mg/L; fecal coliforms N/A.

Level C:  $cBOD_5 \leq 125$  mg/L;  $TSS \leq 60$  mg/L; O&G  $\leq 25$ mg/L; fecal coliforms N/A.

**Type I System:** An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, MN Rules, Chapter 7080, Parts 7080.2200 through 7080.2240.

**Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots in floodplains and privies or holding tanks in accordance with MPCA rules MN Rules Chapter 7080, Parts 7080.2250 through 7080.2290.

**Type III System:** A system designed according to the requirements with MN Rules Chapter 7080, Part 7080.2300.

**Type IV System:** An ISTS, having an approved pretreatment device that is capable of providing suitable treatment for use in accordance with MPCA rules MN Rules Chapter 7080, Part 7080.2350. The system must be designed by an Advanced Designer and inspected by an Advanced Inspector.

**Type V System:** An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented in accordance with MPCA rules and MN Rules Chapter 7080, Part 7080.2400. The system must be designed by an Engineer with an SSTS Advanced designer license and certification or an Advanced Designer in cooperation with an Engineer and inspected by an Advanced Inspector.

**Wellhead Protection Area:** The surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field as regulated under MN Rules Chapter 4720. For the purpose of MN Rules Chapter 4720, wellhead protection area is that area bounded by the drinking water supply management area as regulated under MN Rules Chapter 4720.

**15% Reduction Rule:** Allows for a 15% reduction in the required vertical separation to account for settling of soil, normal variation of measurements, and interpretations of the limiting layer conditions. This pertains only to systems requiring 36 inches of vertical separation.

## **SECTION 7: General Provisions**

1. **Scope:** This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within Watonwan County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.
2. **Jurisdiction:** The jurisdiction of this Ordinance shall include all lands of Watonwan County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their incorporated jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The Watonwan County Land Management Office shall keep a current list of local jurisdictions within the County administering an SSTS program.

## **SECTION 8: Administration**

1. **County Administration:** The Watonwan County Land Management Office shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review, revise, and update this Ordinance as necessary. The County shall employ, or retain under contract, qualified and appropriately licensed professionals to administer and operate the SSTS program.
2. **State of Minnesota:** Where a single SSTS or group of SSTS under common ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.  

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.
3. **Cities and Townships:** Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.
4. **Validity:** The validity of any part of this Ordinance shall not be affected by the invalidity of any other parts of this Ordinance where the part can be given effect irrespective of any invalid part or parts.
5. **Liability:** Any liability or responsibility shall not be imposed upon the Agency, County, or Department, or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster treatment system regulated under this rule by reason of standards, requirements, or inspections authorized hereunder.

## **SECTION 9: General Requirements**

1. **Retroactivity:**
  - A. All SSTS. Except as explicitly set forth in Section 9, 1, B, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.
  - B. Existing Certificates. Unexpired certificates which were issued prior to the effective date shall remain valid under the terms and conditions of the original certificate until the original expiration date.

- C. SSTS on lots created after January 23, 1996. All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in MN Rules, Chapter 7080, Parts 7080.2200 through 7080.2230 or site conditions described in MN Rules Chapter 7081, Part 7081.0270, Subp. 3 through 7.
2. **Construction Activity:** No construction or repair requiring excavation of soil before April 15, or after October 15, shall be allowed in any portion of the drainfield or soil absorption system without the written permission of a Qualified Employee of the Watonwan County Land Management Office.
  3. **Upgrade/Expansion:** Repair/Replacement (see Section 11: SSTS Permitting)
    - A. **SSTS Capacity Expansion.** Expansion of an existing SSTS, that includes any system upgrades that are necessary to bring the system into compliance, must have the upgrades of the system follow the prevailing provisions of this Ordinance at the time of the expansion.
    - B. **Additions to Dwellings:** Prior to the issuance of a Building Permit for an addition to a dwelling that increases the number of bedrooms or bathrooms in the dwelling, the owner must submit a valid Certificate of Compliance or a Certified Inspection Report stating the system is in compliance, or obtain a valid SSTS Septic Permit.
  4. **Abandonment:** Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with MN Rules, Chapter 7080.2500. Additionally, any SSTS or any component thereof which has been serving a dwelling that has been abandoned or destroyed must be abandoned in accordance with MN Rules Chapter 7080, Part 7080.2500 within one (1) year of abandonment or destruction.
  5. **Failure to Protect Groundwater:** An SSTS that is determined not to be protective of Groundwater in accordance with MN Rules, Chapter 7080, Part 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 12 months of receipt of a Notice of Noncompliance.
  6. **Imminent Threat to Public Health or Safety:** An SSTS that is determined to be an imminent threat to public health or safety in accordance with MN Rules Chapter 7080, Part 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.
  7. **SSTS in Floodplains:** SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in MN Rules Chapter 7080, Part 7080.2270 and all relevant local requirements are met.
  8. **Class V Injection Wells:** All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.
  9. **SSTS Practitioner Licensing:** No person shall engage in site evaluation, inspection, design, installation, construction, alternation, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with MN Rules Chapter 7083 except as exempted in Part 7083.0700.
  10. **Property owners exempted from SSTS licensing requirements** under MN Rules Chapter 7083, Part 7083.0700, must comply with the following additional provisions:
    - A. A property owner must follow all applicable County, State, and Federal requirements for permitting and construction of an SSTS. All self installed systems must be designed by a licensed SSTS designer.



- B. A property owner shall not construct an SSTS that requires a pump, or any SSTS to be located on soil textures ending in the word sand, in a wellhead protection area, or in a floodplain area without the assistance of a licensed installation business or a certified installer at the site.
- C. The property owner shall provide a signed agreement to the Department which indemnifies and saves the County holding it harmless from all losses, damages, costs, and charges that may be incurred by the County due to failure of the permit holder to comply with the provisions of this section.
- D. The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department.
- E. A property owner utilizing any low-interest septic loan funds, or any other County sponsored financial program shall not be allowed to install or construct their own septic system.

## 11. Prohibitions

- A. Occupancy or Use of a Building without a Compliant SSTS: It is unlawful for any person to maintain, occupy, or use any building intended for habitation that does not provide a wastewater treatment system that disposes of wastewater in a manner compliant with the provisions of this Ordinance.
- B. Sewage Discharge to Ground Surface or Surface Water: It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.
- C. Sewage Discharge to a Well or Boring: It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in MN Rules Chapter 4725, Part 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.
- D. Discharge of Hazardous or Deleterious Materials: It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

## **SECTION 10: SSTS Standards**

1. Standards Adopted by Reference. The County hereby adopts by reference MN Rules, Chapters 7080, 7081, 7082 and 7083 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are more restrictive and in compliance with MN Statute Chapter 115, Section 115.55.
2. Amendments to the Adopted Standards.
  - A. Depth of Tank Burial
    - 1) The top of sewage tanks shall not be buried deeper than six feet from the final grade for new dwellings and must not exceed the tank manufacturers maximum designed depth for the tank. The minimum depth of soil cover over the insulation on the top of the tank is six inches.
  - B. Determination of Hydraulic Loading Rate and SSTS Sizing
    - 1) Table IX from MN Rules Chapter 7080, Part 7080.2150, Subpart 3(E) entitled "Loading Rates for Determining Bottom Absorption Area and Absorption Ratios Using Detailed Soil Descriptions" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance.

2) In some circumstances, the Department, at their discretion, may require percolation test results, as demonstrated in Table IXA from MN Rules Chapter 7080, Part 7080.2150, Subpart 3(E), to verify soil loading rates, or accept table IXA as an alternative to table IX.

3) The Department will make the determination whether a backhoe pit will be required for soil verification for an ISTS. A backhoe pit will be required for all systems with 5,000 gallons or more per day design flow, MSTs or LSTs.

C. Compliance Criteria for Existing SSTS

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

2) SSTS permitted and installed from April 1, 1996 through May 6, 2014 which qualified for, and were installed using the 2 foot Alternative Standard shall be deemed compliant on vertical separation if the 2 foot standard continues to be met. Systems failing to be compliant for any other reason must be upgraded or replaced under the current standards.

3) SSTS built after March 31, 1996 which did not qualify for alternative minimum standards, or SSTS located in a shoreland area, wellhead protection area, or establishments serving food, beverage, or a lodging establishment as defined under MN Rules Chapter 7080, Part 7080.1100, Subp. 84, shall have a three (3) foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. When determining vertical separation distance, a variance reduction of up to 15% or five (5) inches will be allowed to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer conditions.

4) The vertical separation measurement for 1), 2), and 3) above shall be made outside the area of system influence but in an area of similar soil.

3. Holding Tanks may be used for single family homes and other buildings with limited water use and are required for any shop with a floor drain under the following conditions:

A. The holding tank shall be installed in accordance with MN Rules Chapter 7080, Part 7080.2290.

B. A remote reading water meter shall be installed to continuously record indoor water use (excluding holding tanks for shop floor drains). Holding tanks, including shops must have an alarm device to minimize the chance of an accidental sewage overflow. The alarm device shall identify when the holding tank is at 75% of its holding capacity.

C. The owner shall state who the licensed liquid waste hauler will be to pump and haul the waste to a licensed treatment facility or approved land application site. This requirement of having a contract with a licensed maintenance business is waived if the owner is a farmer who is exempt from licensing under MN Statutes, Chapter 115, Section 115.56, subd. 3, paragraph (b), clause (3).

D. The holding tank shall be regularly pumped. Records shall be kept for a period of three (3) years and presented to the department upon request.

E. The maintainer shall certify each date the tank is pumped; the volume of the liquid waste removed, the treatment facility or land application to which the waste was discharged, and the water meter reading at the time of pumping, and any maintenance work, or repairs conducted.

F. Failure to meet these requirements will result in a violation of the Watonwan County Zoning Ordinance.

## **SECTION 11: Variances**

1. **Variance Requests:** A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.
2. **Affected Agency:** Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.
3. **Board of Adjustment:** The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties in meeting the strict letter of this Ordinance. Variance requests to deviate from the design flow determination procedures in MN Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in MN Rules 7080, Part 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health (MDH),
4. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:
  - A. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
  - B. A description of the practical difficulty that prevents compliance with the rule;
  - C. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
  - D. The length of time for which the variance is requested;
  - E. Cost considerations only if a reasonable use of the property does not exist under the terms of the Ordinance and;
  - F. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
5. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment
6. Upon receipt of the variance application, the Department shall decide if a site investigation conducted by the Department will be necessary. After the necessary information has been gathered, the Department shall make a written recommendation to approve or deny the variance to the Board of Adjustment.
7. The Board of Adjustment shall make the final decision after conducting a Public Hearing. The variance may be granted provided that:
  - A. The condition causing the demonstrated practical difficulty is unique to the property and was not caused by the actions of applicant;
  - B. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
  - C. The property owner would have no reasonable use of the land without the variance;
  - D. The granting of the variance would not allow a prohibited use; and

- E. The granting of the variance would be in accordance with MN Rules, Chapters 7080, 7081, and 7082.
8. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.
  9. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
  10. Any variance granted shall automatically expire if the system is not installed within two years of the granting of the variance.
  11. An appeal from any order, requirement, decision, or determination of the Board of Adjustment must be in accordance with its policies and procedures.

## **SECTION 12: SSTS Permitting**

1. **Septic Permit Requirement:** It is unlawful for any person to construct, install, modify, replace, or operate an SSTS without the appropriate permit from the Watonwan County Land Management Office. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.
2. **SSTS Permit:** An SSTS permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of an SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).
3. **Activities Requiring a Construction Permit:** An SSTS permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
4. **Construction Permit Required to obtain a Building Permit:** For any construction for which an SSTS Permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a Building Permit may be issued by the Department.
5. **Conformance to Prevailing Requirements:** Any activity involving an existing system that requires an SSTS Construction Permit shall require that the entire system be brought into compliance with this Ordinance.
6. **Permit Application Requirements:** SSTS Permit applications shall be made on forms provided by the Watonwan County Land Management Office and signed by the applicant and an appropriately certified practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in items A through G below.
  - A. Name, mailing address, and telephone number, of property owner.
  - B. Property Identification Number, address and legal description of the property location.
  - C. Site Evaluation Report as described in MN Rules Chapter 7080, Part 7080.1730
  - D. Design Report as described in MN Rules Chapter 7080, Part 7080.2430.
  - E. Management Plan as described in MN Rules Chapter 7080, Part 7082.0600.
  - F. Name, mailing address, telephone number, and SSTS license number of the system designer and of the system installer.
  - G. Any other information requested by the Department that is pertinent to the application.
7. **Application Review and Response:** The Department shall review a permit application and supporting documents.

- A. Upon satisfaction that the proposed plan and design information conform to the provisions of this Section, the Department shall issue a septic permit authorizing construction of the SSTS as designed, within 15 business days of receipt of the plans and design.
  - B. In the event there is a significant change to the approved application, the designer must file an amended application to the Department detailing the changed conditions for review and approval or denial prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within 15 business days of receipt of the amended application.
  - C. If the permit application is incomplete or does not meet the requirements of this section, the Department shall deny the application. A written notice of denial shall be provided to the applicant, which must state the reason for the denial, within 15 business days of receiving the permit application.
8. **Appeal:** The applicant may appeal the Departments decision to deny the SSTS Permit in accordance with the County's established policies and appeal procedures.
  9. **Permit Expiration:** The Septic Permit is valid for a period of one (1) year from its date of issue. Satisfactory completion of construction shall be determined following a final inspection. After the final inspection, a Certificate of Compliance will be issued to the property owner by the Department. The Certificate of Compliance confirms that the construction or installation of the system was completed in reasonable conformance with the approved design.
  10. **Extensions and Renewals:** The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than 12 months.
  11. **Transferability:** An SSTS Permit shall not be transferred to a new owner. The new owner must apply for a new Construction Permit in accordance with this section.
  12. **Suspension or Revocation:** The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.
  13. **Posting:** The Construction Permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

### **SECTION 13: Operating Permit**

1. **SSTS Requiring an Operating Permit:** An Operating Permit shall be required of all owners of new holding tanks, MSTs, Type IV systems, Type V systems, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank, MSTs, Type IV, or Type V system until the Watonwan County Land Management Office certifies that the MSTs, Type IV or Type V system, or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, Type IV or Type V system, or holding tank, and a valid Operating Permit is issued to the owner.
2. **Permit Application Requirements:** Application for an Operating Permit shall be made on a form provided by the Watonwan County Land Management Office including:
  - A. Property owner name, mailing address, and telephone number.
  - B. Property Identification number, address and legal description of the property.
  - C. SSTS Permit number and date of issue

- D. Final record or as-built drawings of the treatment system
  - E. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
  - F. Any other information requested by the Department that is pertinent to the application.
3. Owners of holding tanks shall provide to the Watonwan County Land Management Office a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with MN Rules, Chapter 7082.0100. This requirement of having a contract with a licensed maintenance business is waived if the owner is a farmer who is exempt from licensing under *MN Statutes, section 115.56, subdivision 3, paragraph (b), clause (3)*.
  4. SSTS existing prior to the effective date of this ordinance: All SSTS existing prior to the effective date of this ordinance that required an operating permit shall be required to secure an updated operating permit if the SSTS is modified, expanded, replaced, upon ownership transfer, or following any enforcement action.
  5. **Department Response:** The Department shall review the design and record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within 15 business days of receipt of the permit application.
  6. **Operating Permit Terms and Conditions:** The Operating Permit shall include the following (see MN Rules, Chapter 7080, Part 7082.0600, Subp.2.B):
    - A. System operating and performance requirements;
    - B. System monitoring requirements;
    - C. System maintenance requirements and schedules;
    - D. System compliance limits and boundaries;
    - E. Reporting requirements;
    - F. Department notification requirements for non-compliant conditions;
    - G. Valid contract between the owner and a licensed maintenance business;
    - H. Disclosure, location and condition of the additional soil treatment and dispersal system site;
    - I. Descriptions of acceptable and prohibited discharges.
  7. **Operating Permit Expiration and Renewal.**
    - A. Operating Permits shall be valid for five (5) years.
    - B. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with MN Rules Chapter 7080.2500.
    - C. The Department shall notify the holder of an operating permit at least ninety (90) calendar days prior to expiration of the permit. The Owner must apply for renewal at least thirty (30) calendar days before the expiration date.
    - D Application shall be made on a form provided by the Department including:
      - 1) Applicant name, mailing address and phone number;
      - 2) Property address and legal description;
      - 3) Operating permit and SSTS permit number;

- 4) Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit;
  - 5) Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County;
  - 6) Any revisions made to the operation and maintenance manual;
  - 7) Payment of application review fee as determined by the County;
  - 8) Description of type of maintenance or repair, and date performed.
8. **Amendments to existing permits not allowed:** The County may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
9. **Transfers:** The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Subdivision 16 of this Ordinance. The Department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
10. **Suspension or Revocation of Operating Permit:**
- A. The Department may suspend or revoke any operating permit issued under this Section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
  - B. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner.
  - C. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with MN Rules Chapter 7080, Part 7080.2500.
  - D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
11. **Compliance Monitoring:**
- A. Performance monitoring of an SSTS shall be determined as indicated in the management plan.
  - B. A monitoring report shall be prepared and certified as indicated in the monitoring plan. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
    - 1) Owner name, address and telephone number;
    - 2) Property address and legal description;
    - 3) Operating Permit number;
    - 4) Average daily flow since last compliance monitoring report;
    - 5) Description of type of maintenance and date performed;
    - 6) Description of samples taken (if required), analytical laboratory used, and results of analyses;
    - 7) Problems noted with the system and actions proposed or taken to correct them;
    - 8) Name, signature, business license, and license number of the licensed professional who performed the work.

**SECTION 14: Abandonment Certification**

1. **Purpose:** The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned, within 1 year, following decommissioning, and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.
2. **Abandonment Requirements:**
  - A. Whenever the use of an SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
  - B. Continued use of a sewage tank where the tank is to become an integral part of a replacement system or a sewage treatment system requires certification of the tank by a licensed inspection business that the tank is watertight and in compliance with all applicable SSTS tank standards.
  - C. An owner of an SSTS must retain a licensed business to abandon all components of the treatment system whenever the use of a SSTS or any system component is discontinued. System abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Department of an owner's intent to abandon a system is necessary.
  - D. A report of abandonment certified by the licensed business shall be submitted to the Department within 30 calendar days of system abandonment. The report shall include:
    - 1) Owner's name, mailing address and telephone number;
    - 2) Property address;
    - 3) System SSTS permit and operating permit numbers;
    - 4) The reason(s) for abandonment;
    - 5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals;
    - 6) A certified statement from a licensed business that the abandonment was completed in accordance with Minnesota Rules, Chapter 7080.2500.
3. **Abandonment Certificate:** Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according to the requirements of this ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within thirty (30) calendar days of the notice.

## **SECTION 15: Management Plans**

1. **Purpose:** The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.
2. **SSTS Requiring Management Plans:** Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the septic construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification
3. **Required Contents of a Management Plan:** Management plans shall include the following: MN Rules Chapter 7082, Part 7082.0600, Subp.1:
  - A. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
  - B. Monitoring requirements;
  - C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;



- D. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
  - E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence;
  - F. Other requirements as determined by the Department.
4. **Requirements for Systems not operated under a Management Plan** MN Rules Chapter 7082, Part 7082.0100, Subp. 3.(L)
- A. SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids every three (3) years if needed.
  - B. Solids must be removed when their accumulation meets the limit described in MN Rules, Chapter 7080.2450.

## **SECTION 16: Compliance Management**

### **1. Public Education Outreach:**

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

### **2. Inspection Program:**

- A. Department Responsibility: It is the responsibility of the Department, or its agent, to perform various SSTS inspections to assure that the requirements of this Ordinance are met:
  - 1) To ensure compliance with applicable requirements;
  - 2) For all new SSTS construction or replacement;
- B. SSTS compliance inspections must be performed:
  - 1) To ensure system compliance before issuance of a permit for addition of a bedroom or a bathroom unless the permit application is made during the period of October 15 to April 15, provided a compliance inspection is performed before the following June 1, and results provided to the Department by June 16. If the system is found to be non-compliant, it must be upgraded or replaced in accordance with the provisions of this Ordinance.
  - 2) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with MN Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- C. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
  - 1) It is the responsibility of the installer to notify the Watonwan County Land Management Office (also referred to as Department) at least two (2) business days prior to any permitted work on the SSTS. The installer shall confirm the inspection time with the Department on the morning of the business day of the scheduled inspection.
  - 2) The installation and construction of the SSTS shall be in accordance with the approved construction permit requirements and design. If any SSTS component is covered before being inspected by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the design shall be reviewed and approved by the Department prior to construction. An inspection shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per submitted and approved design.

- 3) If the installer provides proper notice as described above and the Department does not appear for an inspection within two (2) hours after the time set for an inspection, the installer may complete the installation if photographs are taken during each phase of the installation process and are submitted to the Department within 15 days of installation completion.
- 4) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, “property” does not include a residence or private building. The Department shall notify the owner of the Department’s intent to inspect the SSTS in advance of the intended inspection.
- 5) No person shall hinder or otherwise interfere with the Department’s employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
- 6) As-Built drawings are the responsibility of the installer, and shall be submitted to the Department within 15 business days of completion of the work on the SSTS.
- 7) Neither the issuance of permits, Certificates of Compliance, nor notices of non-compliance as requested or issued shall be construed to represent a guarantee or warranty of the system’s operation or effectiveness. Such certificates: signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

### **3. New Construction or Replacement:**

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with MN Rules, Chapters 7080 or 7081. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department’s requirements.
- B. MN Rules Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two independent parties, which may be a licensed inspection businesses and/or a qualified employee inspector with jurisdiction. If there is a dispute between the two verifying inspectors, the disputing parties must follow the local dispute resolution procedures. If no local dispute resolution procedures exist, the dispute resolution procedure described in 7080.0700, Subp. 5 must be followed.
- C. It is the responsibility of the SSTS owner or the owner’s agent to notify the Department two (2) calendar days prior to any permitted work on the SSTS.
- D. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five (5) years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- E. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements.
- F. The Certificate of Compliance or Notice of Noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the Certificate of Compliance or Notice of Noncompliance to the owner or the owner’s agent within 15 business days of receipt from the certified inspector.
- G. Certificates of Compliance for new construction or replacement shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

### **4. Existing Systems:**

- A. Compliance inspections shall be required when any of the following conditions occur:
  - 1) When a construction permit is required to repair, modify, or upgrade an existing system;
  - 2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;

- 3) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
  - 4) At the time of property sale or transfer if the current owner does not have a valid Certificate of Compliance;
  - 5) During systematic lake or area-wide SSTS surveys by the Department, and/or;
  - 6) Anytime the Department deems appropriate such as upon receiving a complaint or other information of system malfunction or failure that would require enforcement action;
  - 7) Before a building permit will be issued for an addition of a bedroom or bathroom.
  - 8) Any sewage treatment system within the Shoreland Overlay District not meeting the requirements of this section must be upgraded, at a minimum, anytime a permit or variance of any type is required for any improvements on, or use of, the property.
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed, or verified:
- 1) Water-tightness assessment of all treatment tanks including a leakage report;
  - 2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report. As referenced in MPCA Rules Chapter 7080.172, the determination of the location of the periodically saturated soils must be done on unfrozen soils. Any compliance inspection triggered between October 15<sup>th</sup> and April 15<sup>th</sup> will have until the following June 1<sup>st</sup> of that year to be completed.
  - 3) MN Rules, Chapter 7082.0700, Subp. 4,B (2) requires soil separation compliance assessments be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must either be determined by conducting new soil borings or by prior soil separation documentation made by two independent parties. If the soil separation has been determined by two independent parties, a subsequent determination is not required unless requested by the owner or the owner's agent. If there is a dispute between the two verifying inspectors, the disputing parties must follow the local dispute resolution procedures. If no local dispute resolution procedures exist, the dispute resolution procedure described in 7082.0700, Subp. 5 must be followed.
  - 4) Sewage backup, surface seepage, or surface discharge including a hydraulic function report;
  - 5) The requirements for the inspection reports in this section are described in MN Rules Chapter 7082, Part 7082.0700, Subp. 4(B).
- C. The certificate of compliance must include a certified statement by a qualified employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than fifteen (15) calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within fifteen (15) business days of receipt from the licensed inspection business.
- E. SSTS on properties sold or transferred to new owners should be repaired, replaced, or upgraded as determined by a compliance inspection, records search, or other means acceptable to the Department that are conducted prior to ownership transfers. The determination of need to repair, replace, or upgrade should proceed in a manner that does not needlessly delay or otherwise interfere with the property sale transaction.
- F. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department shall notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.

## **SECTION 17: Non Compliant Systems**

- A. Systems that have been determined to be non compliant and an imminent public health threat by county staff or a licensed septic inspector shall be made compliant within 10 months of the issuance of the notice of non compliance. Any system found to be non compliant due to failure to protect groundwater (Sec.10(2)(C)) shall be subject to replacement within 12 months of the notice of non compliance.

## **SECTION 18: Transfer of Property**

Property Transfer: The act of a party by which the title to property is conveyed from one party or entity to another. The sale and every other method, direct or indirect, of disposing or parting with property, or with an interest therein, or with the possession thereof, absolutely, or conditionally, voluntarily or individually, by or without judicial proceedings, as a conveyance, sale, mortgage, gift, or otherwise.

1. Before a conveyance of (a) land upon which a dwelling is located or (b) a tract of land upon which an SSTS is located the following requirements shall be met:
  - A. A Property Transfer Septic System Disclosure/Agreement form has been properly completed and presented including but not limited to a Certificate of Compliance if required and an agreement between the buyer and seller which indicated who is responsible for bringing the septic system into compliance.
  - B. Certificate of Compliance
    1. A Certificate of Compliance for new construction or replacement systems remain valid for five (5) years from the date of issuance unless the local unit of government finds evidence of noncompliance.
    2. A Certificate of Compliance for an existing system inspection is valid for three years from the date of issuance unless the local unit of government finds evidence of noncompliance.
  - C. Whenever the property being conveyed requires an SSTS and does not have a system that complies with MN Rules Chapters 7080, 7081, or 7082 and this Ordinance, the property owner and prospective buyer must sign an agreement to install a complying system within 12 months of property transfer. A copy of the agreement shall be attached to the Property Transfer Septic System Disclosure/Agreement Form. *(See Property Transfer Septic System Disclosure/Agreement Form, appendix 1)*
2. The Property Transfer Septic System Disclosure/Agreement Form will not require that a Certificate of Compliance be completed if the following exists:
  - A. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - B. The transfer is a foreclosure, tax forfeiture, or court ordered.
  - C. The transfer does not require filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.
  - D. The sale completes a contract for deed or purchase agreement entered into where a valid Certificate of Compliance was in place at signing or within 12 months after the date of contract signing. This subsection applies only to the original vendor and vendee on such a contract.
  - E. In any transfer where title is transferred to a spouse or ex- spouse, or at least one current living title holder retains title to the property, or is named as a trustee if the property is placed in trust.

- F. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a County approved agreement requiring exclusive connection to the wastewater treatment facility other than an individual sewage treatment system.
  - G. The property about to be transacted does contain a septic system, however, the system has been disconnected from the plumbing in the house and the Watonwan County Land Management Office has been or will be contacted to complete an inspection to verify that. The septic system will either be properly abandoned or permit will be obtained if the septic system is to be reconnected to the house.
3. Neither the issuance of permits, certificates of compliance, nor notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

## **SECTION 19: Enforcement**

### **1. Violations**

- A. Cause to Issue a Notice of Violation. Any person, firm, agent, or corporation who violates any of the provisions of this SSTS Ordinance, or who fails, neglects, or refuses to comply with the provisions of this SSTS Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.
  - B. Notice of Violation. The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this SSTS Ordinance. The notice of violation shall contain:
    - a) A statement documenting the findings of fact determined through observations, inspections, or investigations;
    - b) A list of specific violation(s) of this SSTS Ordinance;
    - c) Specific requirements for correction or removal of the specified violation(s);
    - d) A mandatory time schedule for correction, removal and compliance with this SSTS Ordinance.
2. **Cease and Desist Orders:** Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this SSTS Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.
3. **Prosecution:** In the event of a violation or threatened violation of this SSTS Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such civil action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this SSTS Ordinance.
4. **Fines:** Fines shall be paid within 30 days. If they are not, they may be assessed along with property taxes to the subject property.
5. **State Notification of Violation:** In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this SSTS Ordinance.

**SECTION 20: Cost and Reimbursements**

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

**SECTION 21: Record Keeping**

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

**SECTION 22: Annual Report**

The department shall provide an annual report, of the previous calendar year's SSTS permitting activities, to the MPCA by the date specified by the MPCA as required.

**SECTION 23: Fees**

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

**M. Windpower Management**

1. Purpose

The purpose of this Section is to set forth a process for permitting wind energy facilities with a rated capacity of less than 5 megawatts. (MN Statutes 116C.697 preempts all local authority over permitting or regulating the construction or operation of wind power facilities of 5 megawatts (5 million watts) of nameplate generator capacity or greater.)

2. Permit Application

All proposed wind energy facilities must fill out a Conditional Use Permit application provided by the Watonwan County Planning and Zoning Department with the exception of those developments that are 125 kilowatts and under will be considered a permitted use. The application shall include the following:

- a. Site Plan shall be submitted showing the location of all turbines, topography, roads, electrical equipment, property lines area residences including measurements to them and other accessory structures.
- b. Project description including the number of turbines, height and diameter of turbine motors, turbine color and rotor direction.
- c. Decommissioning Plan. This plan shall describe in detail what steps would be taken to restore the site to its original condition in the event that the operation of the wind tower should cease. The plan shall also address the manner in which the permitted party will ensure that financial resources will be available to carry out the plan.
- d. Engineering certification of the tower and foundation design.
- e. Evidence of power purchase contracts and power transmission contracts, or documentation that the power will be utilized on-site.

3. Compliance with Codes and Standards

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

- a. Uniform Building Code as adopted by the State of Minnesota.
- b. The National Electrical Code as adopted by the State of Minnesota.

- c. Federal Aviation Administration requirements.
- d. Minnesota Pollution Control Agency/Environmental Protection Agency regulation including, but not limited to those regulations (hazardous waste, construction, storm water, etc.)

4. Certifications

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

5. Overspeed Controls

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

6. Setback Requirements

<u>Object</u>	<u>Setback</u>
Residence	750 feet
Property Line	one foot/foot of total height
Road Right-of-Way	one foot/foot of total height
Other Structures	1.25 times their height

7. Noise Standards

Noise standards are regulated by the Minnesota Pollution Control Agency under Chapter 7030. These rules establish the maximum night and daytime noise levels that effectively limit wind turbine noise to 50-dB (A) at farm residences and are incorporated here by reference. Additional local limits relative to impulsive and pure tone noises may be appropriate and set forth as a condition in the permit.

8. Decommissioning

A decommissioning plan shall be filed at time of application to include the following:



- a. Provisions shall ensure that facilities are properly decommissioned upon end of project life or facility abandonment. Decommissioning shall include: removal of all structures and debris to a depth of 4 feet; restoration of the soil; and restoration of vegetation (consistent and compatible with surrounding vegetation) shall also be required.
- b. This decommissioning plan shall identify:
  - 1. When and how a facility is to be decommissioned.
  - 2. Estimated cost of decommissioning.
  - 3. Financial resources to be used to accomplish decommissioning.
- c. Provisions shall ensure financial resources will be available for decommissioning including establishing an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project. The unit of government shall then have access to the escrow account for the explicit purpose of decommissioning. Financial provisions shall not be so onerous as to make wind power projects unfeasible.

9. Tower Type

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

All commercial installed wind turbines must utilize self-supporting, tubular towers. Such towers provide several benefits to be considered by the Planning and Zoning Commission and the County Board:

- a. Improved aesthetics, including intra and inter project visual consistency.
- b. Minimized impact on farming activities.
- c. Reduced potential for unauthorized climbing.
- d. Improved maintenance access increasing the total turbine operating availability.
- e. Reduced need for ancillary structures to house control equipment.

10. Signage

The generator owner shall install signs to warn of high voltage to be posted at the entrances to the facility.

11. Aesthetics

The following items are standards to be met by the applicant to mitigate visual impacts:

- a. Coatings and Coloring: Non-reflective unobtrusive color. Black blades are acceptable for mitigation of icing.
- b. Signage: including anything on the tower or nacelle shall be consistent with other county ordinances pertaining to signage.
- c. Turbine Consistency: To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction. Turbines shall also be consistent in design, color and direction with nearby facilities.
- d. Lighting: Projects shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the Federal Aviation Administration. It may be appropriate for permits to allow for some infrared lights of heat lamps to prevent icing of sensors.
- e. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines, and all communication lines shall be buried underground.

12. Public Services

a. Roads

The city, township and county governments shall be informed of construction timetable and said local unit of government may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits.

b. Fire

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

1. Adherence to electrical codes and standards.

2. Removal of fuel sources, like vegetation, from immediate vicinity of electrical gear and connections.
3. Utilization of twistable cables on turbines.

c. Orderly and Efficient Use of the Resource

Applications shall be reviewed to ensure that the project area does not adversely impact wind development potential on adjacent lands.

New structures shall maintain the same setback from wind turbines as are implemented for wind turbines.

**N. Telecommunication Facilities**

**1. Purpose**

The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennas and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Watonwan County as set forth within the Watonwan County Zoning Ordinance and Watonwan County Comprehensive Plan, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that Watonwan County shall apply these regulations to accomplish the following:

- (a) Minimize adverse visual effects of telecommunications towers, antennas and facilities through design and siting standards.
- (b) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunication Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Watonwan County law enforcement, fire and emergency response network.
- (c) Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Watonwan County citizens.
- (d) Protect environmentally sensitive areas of Watonwan County, including the protection of migratory birds, by regulating the location, design and operation of telecommunications towers, antennas and facilities. The following aspects of this ordinance are promoted based on recommendations contained within U.S. Fish and Wildlife Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers (September 14, 2000): the commitment to exhausting co-location opportunities before allowing new towers, the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shorelands and floodplains.
- (e) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunications towers, and construction of towers with the ability to locate four or more providers.

## 2. Definitions

The following definitions shall apply to this chapter unless the context dictates otherwise. All definitions in Section 2 shall apply unless specifically defined in this chapter.

**Alternative Support Structure:** means structures including but not limited to clock towers, steeples, silos, light poles, water towers, free-standing chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications facilities.

**Antenna:** means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by an disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

**Antenna Building Mounted:** means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

**Antenna Ground Mounted:** means any antenna with its base placed directly on the ground.

**Camouflaged Tower:** means any telecommunications tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. Camouflaging may be accomplished by a suitable combination of the following examples: lack of lighting, low tower height, non-contrasting colors, screening and landscaping, and others.

**Carrier:** means companies licensed by the Federal Communications Commission (FCC) to build personal wireless telecommunications facilities and operate personal wireless telecommunications services. Also called a provider.

**Co-location:** means a telecommunications facility comprised of a single telecommunications tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

**Guyed Structure:** means a telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

**Height, Telecommunications Tower:** means the distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas and lighting.

**Lattice Structure:** means a telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

**Monopole Structure:** means a telecommunication tower of a single pole design.

**Operation:** means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.

**Provider:** see Carrier

**Satellite dish:** means a device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, Television Receiver Only (TVRO) and satellite microwave antennas.

**Telecommunications Facility:** Means a facility, site or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices and support equipment which is used for transmitting, receiving, or relaying telecommunication signals, excluding facilities exempted under Section 3.

**Telecommunication Facility Structure:** means a telecommunication tower or alternative support structure on which telecommunications antenna(s) may be mounted.

**Telecommunications Tower:** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under Section 3.

**Utility Pole Mounted Antenna:** Means an antenna attached to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, or other approved similar structure.

### 3. Exemptions

- (a) Exempt from review under this chapter will be: television antennas, satellite dishes (one) 1 meter (or 39 inches) in diameter or less, satellite dishes used commercially and (three) 3 meters in diameter or less, receive only antennas, amateur radio facilities, and mobile services providing public information coverage or news events or of a temporary or emergency nature.
- (b) Exempt from the conditional use permit requirements of this section will be satellite dishes more than 1 meter in diameter, ground mounted antennas not exceeding 100 feet in height, building mounted antennas not exceeding 25 feet above the highest part of the building to which they are attached, utility pole mounted antennas not exceeding 25 feet above the highest part of the utility pole to which they are attached and antennas co-located on an existing telecommunications facility structure. These structures shall be authorized with a land use permit.
- (c) Exempt structures under this chapter are subject to all other applicable provisions of the zoning code and Airport Height Ordinance.

### 4. Areas Where Telecommunications Facilities May be Allowed or Prohibited

- (a) Telecommunications facilities may be allowed as a conditional use in the following zoning districts, subject to public hearing, review and approval by the County Planning Commission:
  - (1) Agriculture
  - (2) Commercial
  - (3) Industrial
- (b) Telecommunication facilities, except exempt facilities, shall not be allowed in the following areas due to potential harm to the environment.
  - (1) Shoreland
  - (2) Floodplains
- (c) Telecommunication facilities, except exempt facilities, **shall not be allowed** in the following areas due to potential conflict with other uses of the land:

- (1) Historic sites and districts listed on the National Register of Historic places.
- (2) Habitat areas of threatened or endangered species.
- (3) Areas designated for planned residential use in the Watonwan County Comprehensive Plan.
- (4) Zoning Districts:
  - (a) Residential
  - (b) Residential/Recreational

5. **Conditional Use Permit Required**

- (a) A conditional use permit is required for all telecommunication facilities, except exempt facilities. Section 12N (7) shall apply to all telecommunication facilities.
- (b) The Zoning Administrator shall review a conditional use permit application for compliance with the provisions of this section, and the County Planning Commission shall review and act to reach a recommendation to either approve or deny the Conditional Use Permit to the County Board.
- (c) In addition to the information required by Section 12N (7), the application shall include the following:
  - (1) A legal description of the facility site.
  - (2) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
  - (3) An original signature of the applicant, landowner, lessees and holders of easements. The identity of the carrier, service provider, applicant, landowner and their legal status. The name, address and telephone number of the officer, agent or employee responsible for the application.
  - (4) A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions.
  - (5) In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
  - (6) Copies of co-location search letters and responses as defined in Part 6.
  - (7) A tabular and map inventory of all the applicant's existing telecommunications facilities located within Watonwan County and including all of the applicants' existing



telecommunications facilities within 1 mile of the county boundary.

- (8) Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.
- (9) Copies of Finding of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- (10) Copies of the determination of no hazard from the Federal Aviation Administration (FAA).
- (11) An alternatives analysis, prepared and signed by a radio frequency engineer, shall be submitted by the applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities, for review by the department and the County Planning Commission. The analysis shall identify all reasonable, technically feasible, alternative locations or facilities which could provide the proposed telecommunications service within 3 miles of the proposed site. The analysis shall include:
  - (a) Propagation maps showing the existing and proposed signal of the carrier or service provider within all of Watonwan County and within at least 5 miles of the county boundary. Propagation maps shall include areas served through roaming agreements with other service providers if applicable.
  - (b) An explanation of the feasibility of co-locating the proposed telecommunication service on all existing facilities within the 3-mile radius.
  - (c) An explanation of the feasibility of locating the proposed telecommunication service on an alternative support structure within the 3-mile radius.
  - (d) An explanation of the rationale for the site that was selected in view of the relative merits of any of the feasible alternatives.
- (12) A report prepared by a structural engineer licensed by the state of Minnesota certifying the structural design of the tower and its ability to accommodate at least three additional antennas.
- (13) Proof of liability coverage. Watonwan County shall be a certificate holder in this policy.
- (14) Proof of financial security for tower removal as defined in Part 8 (b).
- (15) Such other information as the department or the County Planning Commission may reasonably require.

- (d) The Zoning Administrator, with the approval of the County Planning Commission, may employ on behalf of Watonwan County an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the reasonable costs of such review and/or independent analysis, and shall pay the estimated cost of such services before they are rendered. All invoices, fees and charges shall be paid in full before the issuance of a conditional use permit.

6. **Co-location**

Co-location shall be the preferred method for establishing new telecommunications facilities. Every effort shall be made to co-locate the proposed facility on existing telecommunications facilities or other similar facilities or alternative support structures.

- (a) Any applicant requesting permission to install a new telecommunications tower shall provide evidence of written contact with all wireless service providers who supply service within 3 miles of the proposed facility.
- (b) The applicant shall inquire about potential co-location opportunities at all technically feasible locations.
- (c) The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the department as a means of demonstrating the need for a new tower. Supporting evidence of the need for a new tower may consist of any of the following conditions:
  - (1) No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
  - (2) Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or alternative support structures do not have sufficient strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or alternative support structure, or the system on the existing tower or alternative support structure would cause electromagnetic interference with the applicant's proposed system.

- (5) The fees, cost or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt an existing tower or alternative support structure for co-location are unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers or alternative support structures unsuitable.
- (d) Telecommunications facility structures permitted under this chapter shall allow other users to lease space on the structure up to the maximum number of users allowed by permit. The owner/operator of the facility shall make space available at market rates and with contractual terms standard in the industry within Minnesota. The owner/operator may refuse to lease space on the telecommunications facility structure if the proposed system would cause electromagnetic interference with the system(s) on the existing telecommunications facility structure, or the system(s) on the siting telecommunications facility structure would cause interference with the proposed system, subject to verification by the department.
  - (e) The response of the owner(s)/operator(s) of existing telecommunications facilities to requests for co-location will be considered during the review process established by Part 8. Unreasonable responses to requests for co-location shall be grounds for revocation of a conditional use permit.
  - (f) County and local government agencies shall have the right to reserve space upon any new tower or upon any tower being substantially modified. Reservation of the accommodation upon the structure shall be acquired during the permit approval process through good faith negotiations with the applicant.

## 7. Design Requirements

- (a) **Lattice** towers may be allowed if all other requirements of this chapter are met.
- (b) **Monopole** structures may be allowed if all other requirements of this chapter are met.
- (c) **Guyed** structures are discouraged and may only be allowed if the applicant demonstrates to the satisfaction of the County Planning Commission that no other type of telecommunications facility structure will provide an equivalent level of service. Economic considerations shall not be used in determining whether a guyed structure may be used.
- (d) **Height** of all telecommunications towers shall be limited to no more than 199 feet above original grade, unless the applicant can demonstrate to the satisfaction of the County Planning

Commission that a great height is necessary to provide coverage meeting the minimum requirements of the Federal Communication Commission (FCC) license(s) and that no feasible alternative exists to provide coverage, such as co-locating on existing telecommunications towers or alternative support structures, constructing a new tower in a different location or constructing multiple towers of a shorter height.

- (e) New towers shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least **3 additional users** (minimum of **4 total users** required for each telecommunications facility structure). Towers must also be designed to allow for future rearrangement of antennas on the tower and to accept antennas mounted at different heights. The requirement for construction to allow a minimum of 3 additional users may be waived by the County Planning Commission if evidence is provided that a special circumstance exists that would prevent the proposed telecommunications facility structure from feasibly supporting additional users and antennas.

## 8. Performance Standards

- (a) **Monitoring and Reporting.** The applicant shall monitor the telecommunications facility to ensure full compliance with Federal Communication Commission (FCC) regulations. A report shall be submitted to the department within one month of activation of the facility. Additional reports shall be submitted as needed in conformance with Section 12N (11) of this Section.
- (b) **Security for Removal.** The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the County Planning Commission to ensure the removal of the facility after use has been discontinued as defined by Part 10 of this Section. The amount of financial guarantee shall be no less than \$30,000. Watonwan County shall be a certificate holder in the financial guarantee.
- (c) **Security.** All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from the ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a 6 foot high chain link fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.
- (d) **Signs.** Signs shall be mounted on the fenced enclosure on or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall

be no larger than 6 square feet. No commercial advertising signs may be located on a telecommunications facility site.

- (e) **Screening and Landscaping.** All telecommunications facilities, except exempt facilities, shall be designed to blend in to the surrounding environment and to hide views of the facility from adjoining properties and public roads to the greatest extent feasible.
  - (1) Existing mature vegetation and natural landforms shall be preserved to the greatest extent possible.
  - (2) In locations where existing mature vegetation and landforms will not adequately screen the views of the facility, the site shall be landscaped and maintained with a buffer of plant materials.
    - (a) The landscaped buffer shall consist of evergreen trees planted such that the primary structure and all accessory structures will be completely screened from view at ground level.
    - (b) Trees planted must be at least 4 feet in height at the time of planting.
    - (c) Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping and screening.
- (f) **Lighting.** No lighting of the principal telecommunications facility structure shall be allowed unless required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC). If required, lighting shall be installed only when no other options are available.
  - (1) Red lights shall be preferred to white lights on the primary telecommunications facility structure or tower.
  - (2) High visibility paint shall be preferred to daytime lighting of any kind on the primary telecommunications facility structure or tower.
  - (3) Lighting of accessory structures and the facility site may be permitted by the County Planning Commission if it is of low intensity, directed inward and downward and is limited to within the facility site boundary.
- (g) **Access.** Access shall be provided by an all-weather gravel or paved driveway.
- (h) **Setbacks.** The following minimum setback distances shall apply:

- (1) No telecommunications facility structures shall be located within 500 feet of any residence.
  - (2) No telecommunications tower shall be located less than (one and one-quarter) 1.25 times the approved height of the tower from any property boundary.
  - (3) Setbacks required for telecommunications towers shall be measured from the center of the tower structure.
- (i) **Lot Size.** When a new lot is created for the purpose of locating a telecommunications facility, the minimum lot size for that zoning district shall apply.
  - (j) **Facility Construction.** All telecommunications facilities approved with a conditional use permit shall be completely constructed and in operation within 1 year of the date of approval. An extension of time, not to exceed 6 months, may be granted by the Zoning Administrator due to inclement weather or other extenuating circumstances. There is no additional fee for an extension.

**9. Pre-Existing Telecommunications Towers and Facilities**

Existing, legal, nonconforming telecommunications towers and facilities may add to, move or replace antennas or other transmitting or receiving devices only if these alterations do not increase the nonconformity of the existing facility, and only after submitting an information report similar to those required by Part 11 (c) of this Section. Alterations not listed in this section or listed as exempt under Part 3 (b) shall be prohibited unless the facility is brought into conformance with the provisions of this Section including the issuance of a Conditional Use Permit.

**10. Removal of Abandoned Telecommunication Facilities**

It is the express policy of Watonwan County that telecommunication facilities be removed and their sites restored to their pre-construction state once they are no longer in use and not a functional part of providing telecommunications service.

- (a) Removal and restoration of such facilities is the responsibility of the owner of the facility.
- (b) The telecommunications facility(s) shall be removed when use of the facility(s) has been discontinued or the facility had not been used for its permitted purpose for 12 consecutive months. Mere intent to continue use of the facility(s) shall not constitute use. The applicant/owner shall demonstrate through facility(s) lease(s) or other similar instruments that the use will be continued without a lapse of more than 12 consecutive months to constitute actual use. If the

applicant cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.

- (c) This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility.
- (d) Nothing in this section prevents the removal of the facility prior to expiration of the 12-month period.

## **11. Review Fee and Reporting Requirements**

Beginning January 1, 2004, in order to insure compliance with the provisions of this chapter, the following reports and fees must be submitted to the department by the owner(s)/operator(s) of all existing telecommunications facilities under the jurisdiction of this Section.

- (a) By January 1, 2004, all towers and facilities capable of co-locating additional antennas shall:
  - (1) Provide the following information:
    - (a) A legal description of the facility site
    - (b) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
    - (c) The identity, phone number and address of the facility owner, the landowner, all service providers making use of the facility, lessees and holders of easements.
    - (d) A description of the telecommunications services that the service providers broadcast from the facility.
    - (e) A propagation map(s) prepared by a radio frequency engineer (s) showing the current signal broadcast of all service providers that broadcast from the facility.
    - (f) A report prepared by a structural engineer certifying the actual capacity for co-location on the existing facility.
  - (2) Pay the review fee as prescribed in the Fee Schedule.
  - (3) Pay an additional review fee every 5 years thereafter as prescribed in the Fee Schedule.
- (b) By January 1, 2004, all towers and facilities not capable of co-locating additional antennas shall:
  - (1) Provide the following information:
    - (a) A legal description of the facility site.
    - (b) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.

- (c) The identity, phone number, and address of the facility owner, the landowner, all service providers making use of the facility, lessees and holders of easements.
  - (d) A description of the telecommunications services that the service providers broadcast from the facility.
  - (e) A propagation map(s) prepared by a radio frequency engineer(s) showing the current signal broadcast of all service providers that broadcast from the facility.
  - (f) A report prepared by a structural engineer certifying the lack of capacity for co-location on the existing facility.
- (c) A written report shall be submitted to the department within 10 working days of any of the following events:
- (1) A change in any of the items listed under Section 12N (5) (c).
  - (2) Cessation of the broadcast of a telecommunications signal (for the purpose of monitoring when a facility has been abandoned as defined by Section 12N (10) (b).
  - (3) Reestablishment of a telecommunications signal for which a report of cessation of broadcast had previously been required.
  - (4) The completion of any new aeronautical or environmental study regarding the facility site.

**12. Compliance and Revocation**

All telecommunications facilities under the jurisdiction of this chapter will be reviewed for compliance every two years. Review fees collected shall be used to fund the review of the requirements of this Section. Failure to comply with the requirements of this chapter shall be subject to Section 22 of the Watonwan County Zoning Ordinance. A daily forfeiture shall result until compliance is achieved.

**13. Fees**

Permit and review fees for telecommunications facilities shall be set by the County Commissioners and become part of the department fee schedule.



## O.

### Watonwan County Solar Ordinance

#### **I. Scope - This article applies to all solar energy installations in Watonwan County**

#### **II. Purpose – Watonwan County has adopted this regulation for the following purposes**

To promote the health, safety, and general welfare within the county and promote the effective and efficient use of solar energy systems by establishing uniform standards, regulations, and procedures governing the design, placement, use, and eventual decommissioning of Solar Energy Systems. In no case shall the provisions of this Ordinance guarantee rights to solar access.

#### **Definitions**

**Agrivoltaics** – A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

**Building-integrated Solar Energy Systems** – A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

**Community-Scale Solar Energy System** – A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover ten (10) acres or less.

**Community Solar Garden** – A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar garden may be either an accessory or a principal use.

**Grid-intertie Solar Energy System** – A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

**Ground-mount** – A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

**Large-Scale Solar Energy System** – A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size greater than 10 acres and is the principal land use for the parcel(s) on which it is located.

**Off-grid Solar Energy System** – A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

**Passive Solar Energy System** – A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

**Photovoltaic System** – A solar energy system that converts solar energy directly into electricity.

**Renewable Energy Easement, Solar Energy Easement** – An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, as defined in Minn. Stat. 500.30 Subd. 3 or successor statute.

**Roof-mount** – A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.

**Roof Pitch** – The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

**Solar Access** – Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

**Solar Carport** – A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

**Solar Collector** – The panel or device in a solar energy system that collects solar radiant energy and transforms it into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

**Solar Daylighting** – Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

**Solar Energy** – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System** – A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

**Solar Farms** - A solar array composed of multiple solar panels on ground-mounted rack or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity. Solar farms include but are not limited to community solar gardens which are defined as a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. May be considered a Large-Scale Solar Energy System.

**Solar Hot Air System (also referred to as Solar Air Heat or Solar Furnace)** – A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically-mounted collector on a south-facing wall.

**Solar Hot Water System** – A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

**Solar Mounting Devices** – Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

**Solar Resource** – A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year, and can be measured in annual watts per square meter.

### **III. General Standards**

#### **A. Public Safety –**

1. Systems shall be designed and operated in a manner that protects public safety

#### **B. Wetland –**

1. Systems shall not be installed on any lands listed on the National Wetland Index on or after the date of adoption of this ordinance (adoption date).

#### **C. Advertising –**

1. Systems shall not be used to display advertising, including; signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.

### **IV. Permitted Accessory Use**

Solar energy systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar energy systems that do not meet the following design standards will require a variance or conditional use permit.

#### **A. Height -** Solar energy systems must meet the following height requirements:

1. Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
2. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

3. Solar carports in non-residential districts shall not exceed 20 feet in height.

**B. Set-back** - Solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below.

1. **Roof- or Building-mounted Solar Energy Systems** – The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
2. **Ground-mounted Solar Energy Systems** - Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

**C. Visibility** - Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way, as described in C.1-3, to the extent that doing so does not affect the cost or efficacy of the system. Visibility standards do not apply to systems in non-residential districts, except for historic building or district review as described in E. below.

1. **Building Integrated Photovoltaic Systems** - Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use, or performance standards for the district in which the building is located.
2. **Aesthetic restrictions** – Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards.
  - a. Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.
  - b. Roof-mount systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.
3. **Reflectors** - All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

**D. Lot Coverage** - Ground-mount systems total collector area shall not exceed half the building footprint of the principal structure.

1. Ground-mount systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
2. Ground-mounted systems shall not count toward accessory structure limitations.
3. Solar carports in non-residential districts are exempt from lot coverage limitations.

**E. Historic Buildings** - Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the community Heritage Preservation Commission, consistent with the standards for solar energy systems on historically designated buildings published by the U.S. Department of Interior.

**F. Plan Approval Required** - All solar energy systems requiring a building permit or other permit from Watonwan County shall provide a site plan for review.

1. **Plan Applications** - Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

2. **Plan Approvals** - Applications that meet the design requirements of this ordinance shall be granted administrative approval by an authorized zoning official and shall not require Planning Commission review. Plan approval does not indicate compliance with Building Code or Electric Code.

**G. Approved Solar Components** - Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC (Solar Rating and Certification Corporation) rating.

**H. Compliance with Building Code** - All solar energy systems shall meet standards required by any applicable local building and State of Minnesota Building Code. Solar thermal systems shall comply with HVAC-related requirements of the Energy Code.

**I. Compliance with State Electric Code** - All photovoltaic systems shall comply with the Minnesota State Electric Code.

**J. Compliance with State Plumbing Code** - Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

**K. Utility Notification** - All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

## **V. Principal Uses**

Watonwan County encourages the development of commercial or utility scale solar energy systems where such systems present few land use conflicts with current and future development patterns. Ground-mounted solar energy systems that are the principal use on the development lot or lots are conditional uses in selected districts.

### **A. Principal Use General Standards**

## 1. Site Design

**a. Set-backs** – Community- and large-scale solar arrays must meet the following setbacks:

1. Property line setback for buildings or structures in the district in which the system is located.
2. Roadway setback of 175 feet from the ROW centerline of State highways and CSAHs, 133 feet for other roads.
3. Housing unit setback of 150 feet from any existing dwelling unit.
4. Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening, or berm.

**b. Screening** – Community- and large-scale solar shall be screened from existing residential dwellings.

1. A screening plan shall be submitted that identifies the type and extent of screening.
2. Screening shall be consistent with Watonwan County's screening standards typically applied for other land uses requiring screening.
3. Screening shall not be required along property lines within the same zoning district, except where the adjoining lot has an existing residential use within 300 feet of the proposed solar system.
4. Watonwan County may require screening where it determines there is a clear community interest in maintaining a viewshed.

**c. Ground cover and buffer areas** - The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by Watonwan County.

1. Large-scale removal of mature trees on the site is discouraged. Watonwan County may set additional restrictions on tree clearing or require mitigation for cleared trees.
2. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standard consistent with Minnesota Statutes, section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources (BWSR).
3. The applicant shall submit a planting plan accompanied by a completed "Project Planning Assessment Form" provided by BWSR for review by BWSR or the County SWCD.

4. Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned. The owner of the solar array shall allow the County SWCD to conduct a site visit to verify compliance.

5. Watonwan County may require submittal of inspection fee at the time of the initial permit application to support ongoing inspection of the beneficial habitat ground cover.

**d. Foundations** - A qualified engineer shall certify that the foundation and design of the solar panel racking and support is within accepted professional standards, given local soil and climate conditions.

**e. Power and communication lines** - Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Watonwan County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.

**2. Stormwater and NPDES** - Solar farms are subject to any applicable stormwater management erosion and sediment control provisions and NPDES permit requirements. Solar collectors shall not be considered impervious surfaces if the project is certified as beneficial habitat solar, as described in A.1.c.2. of this ordinance.

**3. Other standards and codes** - All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.

**4. Site Plan Required** - A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by Watonwan County. The site plan should show all zoning districts and overlay districts.

**5. Aviation Protection** - For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

**6. Decommissioning** - A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

a. Decommissioning of the system must occur in the event the project is not in use for 12 consecutive months.

- b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and assurances that financial resources will be available to fully decommission the site.
- c. Disposal of structures, infrastructures, and/or foundations shall meet the provisions of the Watonwan County Solid Waste Ordinance.
- d. Watonwan County may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

**B. Community-Scale Solar** – Watonwan County permits the development of community-scale solar, subject to the following standards and requirements:

- 1. Rooftop gardens permitted** - Rooftop community systems are permitted in all districts where buildings are permitted.
- 2. Community-scale uses** - Ground-mount community solar energy systems must cover no more than ten acres (project boundaries), and are a permitted use in industrial and agricultural districts, and permitted with standards or conditional in all other non-residential districts. Ground-mount solar developments covering more than ten acres shall be considered large-scale solar.
- 3. Dimensional standards** - All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
- 4. Other standards** - Ground-mount systems must comply with all required standards for structures in the district in which the system is located.

**C. Large-Scale Solar** - Ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:

- 1. Conditional use permit** – Solar farms are conditional uses in agricultural districts, industrial districts, and airport safety zones subject to A.1.5. of this ordinance, and in the landfill/brownfield overlay district for sites that have completed remediation.



**Example Use Table**

<b>Use Type</b>	<b>Residential</b>	<b>Mixed Use</b>	<b>Business</b>	<b>Industrial</b>	<b>Agricultural, Rural, Landfill</b>	<b>Shoreland</b>	<b>Floodplain</b>
Large-scale solar				C	C		
Community-scale solar	C	C	C	P	P		
Accessory use ground-mounted solar	P	P	P	P	P	P	
Rooftop solar	P	P	P	P	P	P	P

**P = Permitted**

**C = Conditional**

**Blank Cell = Prohibited**

## **Section 13 - Conditional Use Permits**

### **A. Application**

Applications for Conditional Use Permits shall be made to the Zoning Administrator together with the required fees. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:

1. Description of site (legal description)
2. Site plan drawn at scale showing parcel and building dimensions
3. Location of all buildings and their square footage
4. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks
5. Landscaping and screening plans
6. Drainage plan
7. Sanitary sewer and water plan with estimated use per day
8. Soil type
9. Any additional data required by the Zoning Administrator

### **B. Public Hearing**

Upon receipt in proper form of the application and other requested material, the Watonwan County Planning Commission shall hold at least one (1) Public Hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County. All property owners of record within five hundred (500) feet of incorporated areas and/or one (1) mile of unincorporated areas where the Conditional Use is proposed shall be notified by depositing a written notice in the U.S. mails, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed Conditional Use shall be given proper notice.

### **C. Authorization**

For each application for a Conditional Use, the County Planning Commission shall report to the County Board of Commissioners its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the County Board of Commissioners shall hold whatever public hearings it deems advisable and shall make a decision upon

the proposal for a Conditional Use Permit. Any approved Conditional Use Permit shall become void unless a building permit is issued within one (1) year of final approval by the County Board.

***D. Standards***

No Conditional Use shall be recommended by the County Planning Commission unless said Commission shall find:

1. that the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
2. that the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
3. that adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
4. that adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
6. that soils conditions are adequate to accommodate the proposed use.
7. that proper facilities are provided which would eliminate any traffic congestion or traffic hazard which may result from the proposed use.
8. that the density of proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.
9. that the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.
10. relationship of proposed use to the County Land Use Plan.
11. the demonstrated need for the proposed use.

***E. Authority to Impose Conditions***

The County Board, in order to achieve the standards stated in Subdivision D of this Section, may require reasonable changes in building design, landscaping, screening, and may impose conditions requiring reasonable maintenance of the premises as a condition for approval.

The applicant for a Conditional Use Permit, which in the opinion of the Planning Commission, may result in a material adverse effect on the environment may be requested by the Board to demonstrate the nature and extent of the effect.

***F. Fees***

1. A Conditional Use Permit application fee shall be as established by the County Board payable when the application is filed.
2. Any outside costs for consulting services to aid the Planning Commission and/or County Board in making a decision on the Conditional Use Permit application shall be paid by the applicant. Such fee shall be as determined by the County Board.

***G. Compliance***

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.

## Section 14 - Variances

### A. *Criteria for Granting Variances*

A variance to a provision of the Zoning Ordinance may be issued by the Board of Adjustment in accordance to Minnesota Statutes, Chapter 394, to provide relief to a landowner in cases where the Ordinance imposes undue hardship or practical difficulties to the property owner in the use of land. No use variances (uses different than those allowed in the district) may be issued. A variance may be granted only in the event that all the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this Ordinance have had no control.
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant or rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
3. That the special conditions or circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.
5. That the variance requested is the minimum variance which would alleviate the hardship. Economic conditions alone shall not be considered a hardship.
6. The variance would not be materially detrimental to the purpose of this Ordinance or to other property in the same zone.
7. The Board of Adjustment may impose such restrictions and conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance.
8. For existing developments, the applicant for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

**B. Required Exhibits for Variances**

1. SEE Section 14,A of this Ordinance for the required information to be submitted.

**C. Procedure**

1. A request for a variance shall be filed with the Zoning Administrator on an official application form and shall be accompanied by a fee, as set by the County Board. The fee shall not be refunded.
2. Required exhibits to be submitted with the application form shall include both a sufficiently detailed site plan and a written explanation of the request.
3. The Zoning Administrator shall refer said application to the Board of Adjustment for review.
4. The Board of Adjustment shall set a date for a public hearing within sixty (60) days after receiving a request for a variance or appeal. Notice of the hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing. Written notice of public hearings on all variance requests shall be sent to all property owners of record within five hundred (500) feet of the affected property or to the ten (10) properties nearest to the affected property, whichever method provides notice to the greatest number of owners. Written notice shall also be given to the affected Board of Town Supervisors and the Municipal Council of any municipality within two (2) miles of the affected property.
5. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this Ordinance.
6. The Board of Adjustment shall make a finding of fact and shall make a decision within fifteen (15) days after the public hearing. It shall take one (1) of three (3) actions: approval; denial; or approval with special conditions.
7. The granting of a variance to this Ordinance or of an appeal shall be by majority vote of the full Board of Adjustment. The Zoning Administrator shall notify the originator of the variance request or appeal of the Board of Adjustment's decision in written form.
8. No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six (6) month period following a denial of such a request, except the board may permit a new application, if in the opinion of the board, new evidence of change or circumstances warrant it.
9. All appeals from the decision of the Board of Adjustment relating to variances shall be directed to a court of competent jurisdiction.

***D. Lapse of Variance or Appeal***

Whenever within one (1) year after granting a variance or appeal, the work as permitted by the variance or appeal shall not have been completed, then such variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board of Adjustment and Appeals. Such extension shall be requested in writing and filed with the Zoning Administrator at least sixty (60) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal.

**Section 15 - Amendments**

***A. Application***

1. This Ordinance may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this Section.
2. Proceedings for amendment of this Ordinance shall be initiated by
  - a. a petition of the affected property owners. For purposes of this Subdivision, affected property owners shall refer to owners of the property specified on the application;
  - b. a recommendation of the County Planning Commission; or
  - c. by action of the Board of County Commissioners.
3. An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any Zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within three hundred (300) feet of the boundaries of the property proposed to be rezoned.
4. Notice of public hearing, containing date, time and location of hearings as well as a description of the requested amendment, shall be mailed to property owners of record within one-half (1/2) miles of unincorporated areas. This notification shall be accomplished by a written notice in the U.S. mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the boundaries of the property proposed to be rezoned shall be given proper notice.

**B. Public Hearing**

Upon receipt in proper form of the application and other requested material, the Watonwan County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County.

**C. Authorization**

1. Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action without awaiting such recommendation.
2. Upon the filing of such report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, the Board of County Commissioners may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if a majority of all the members of the Board concur in its passage.

**D. Fees**

1. All applications for a zoning district boundary change or amendment to this Ordinance shall be accompanied by a fee in the amount set annually by the County Board, payable when the application is filed.
2. Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering, and planning consultant assistance necessary for proper review and consultation to assist the Planning Commission and County Board in its decision making. Such fee shall be determined by the County Board.



## **Section 16 - Nonconforming Uses**

### **A. Intent**

It is the intent of this Section to provide for the regulation of nonconforming buildings and uses and to specify the requirements and circumstances under which such buildings and uses will be operated and maintained. Nonconforming buildings and uses existing upon adoption of this Ordinance shall be permitted to continue until they are removed or discontinued.

### **B. Discontinuance**

1. In the event that a nonconforming use of any building or premises is discontinued or its normal operation is stopped for a period of one (1) year, the use of same shall thereafter conform to the regulations of the district in which it is located.
2. In the event that the use of a non-conforming advertising or business sign is discontinued or the business being advertised is discontinued for a period of six (6) months, said sign shall be removed by the owner or leasee at the request of the County Board of Commissioners.

### **C. Alterations**

The lawful use of a building existing at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provisions thereof. If a structure is altered to become a conforming use, it cannot thereafter be changed to a less restricted use.

### **D. Residential Alterations**

Alterations may be made to a residential building containing nonconforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building or the physical dimensions of the building.

### **E. Restoration**

No building which has been damaged by fire, explosion, natural disaster, as designated by the County Board, to the extent of more than fifty percent (50%) of its value, as determined by the County Assessor, shall be restored except in conformity with the regulations of this Ordinance.

**F. Normal Maintenance**

Maintenance of a building or other structure containing or used by a nonconforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the nonconforming building or use. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the County Zoning Administrator.

**G. Lots of Record**

1. Lots of Record in the office of the County Recorder as of the date of enactment of this Ordinance which do not meet the requirements as prescribed, such as, but not limited to, area, width and depth, may be allowed as building sites only as provided in Section 3, Subdivision D of this Ordinance and also provided such use is permitted in the zoning districts and sanitary and dimensional requirements of this Ordinance are complied with insofar as practicable.
2. In such case, where buildings exist on lots on either side of a lot of record, with front yard setbacks that do not conform to this Ordinance, the setback for the lot of record shall be determined to be equal to a straight line drawn between the front yard setback lines of the two adjacent buildings. In such case, where there is a nonconforming setback on a building adjacent to one side of a lot of record and the lot on the other side is vacant, the setback of the nonconforming building plus one-half (1/2) the difference between the setback of the nonconforming building and the setback required by this Ordinance.
3. In such cases, where proposed additions do not encroach further on the yard setbacks that exist, such additions will be permitted provided the use is permitted within the zoning district in which the property located.

**H. Changes and Substitutions**

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with the lot area, established setback lines along arterial streets, highways and property lines, and the yard, height, parking, loading, unloading, access and any other applicable provisions of this Ordinance, it shall not revert back to a non-conforming use or a substandard structure. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for the existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Board of Adjustment.

***I. Building Permits Previously Issued***

Any structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans, provided construction is started within one hundred twenty (120) days and continues to completion within two (2) years. Such structure and use shall thereafter be a legal nonconforming structure and use.

## **Section 17 - County Planning Commission**

### **A. Creation and Membership**

1. The Watonwan County Planning Commission is hereby established. This Commission shall be composed of not less than five (5) nor more than eleven (11) members appointed by the Chair of the Board of County Commissioners. Each County Commissioner will have at least one Planning Commission member from their geographic district, along with one at-large member to be named from within the county .
2. At least two (2) members shall be residents of the portion of the County outside the corporate limits of municipalities. One voting member of the Commission shall be an officer or employee of the County or County Commissioner. One member of the Planning Commission shall also be a member of the Board of Adjustment. No voting member of the Commission shall have received, during the two (2) years prior to appointment, any substantial portion of income from business operations involving the development of land within the County for urban related purposes.
3. Appointments to the County Planning Commission shall be for a period of three (3) years except for the initial appointments. For the initial appointments, two members shall be appointed for a period of one (1) year, two members shall be appointed for a period of two (2) years and one member shall be appointed for a period of three (3) years. No member may serve more than two full three year terms, in addition to any partial terms. And in no case shall any person serve more than a total of eight years on the Planning Commission.
4. The County Planning Commission shall annually elect from its membership a Chairman, a Vice-Chairman and a Secretary.
5. Removal from the County Planning Commission of any member for non-performance of duty or misconduct in office shall be made by the Board of County Commissioners. Three unexcused absences in one calendar year shall constitute non-performance of duty. Absences shall be reported to the County Zoning Administrator prior to scheduled meetings.
6. In the event a vacancy occurs on the Planning Commission, the Chairman of the Board of County Commissioners shall appoint another individual to serve out the unexpired term.
7. The County Board may designate the Zoning Administrator as an exofficio member of the Planning Board.

## **B. Compensation**

The members of the County Planning Commission, other than members of the Board of County Commissioners, may be compensated in an amount determined by the County Board. All County Planning Commission members, including County Commissioners, may be paid their necessary expenses in attending meetings of the County Planning Commission and in conducting business of the County Planning Commission.

## **C. Powers**

The County Planning Commission shall cooperate with the Zoning Administrator and other employees of the County in preparing and recommending to the Board of County Commissioners for adoption, the Comprehensive Plan and amendments thereto, and recommendations for plan measures.

1. The County Planning Commission shall review all applications for Conditional Use Permits and conduct hearings thereon.
2. The County Planning Commission shall review all applications for the platting of land and report thereon to the board of County Commissioners.
3. The County Planning Commission shall conduct whatever other business the Board of County Commissioners directs it to do.

## ***Section 18 - Board of Adjustment***

### **A. Creation and Membership**

1. A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statutes, Chapter 559, Laws of 1959, as amended. Such Board shall consist of three (3) or more members of which at least one (1) shall be a member of the County Planning Commission and one (1) shall be from the unincorporated area of the County. Any elected officer of the County or employee of the Board of County Commissioners shall be excluded from membership. The Board members shall be appointed by the Board of County Commissioners. The Board members shall be appointed for terms coinciding with terms on the County Planning Commission.
2. The Board of Adjustment shall elect a chairperson and vice chairperson from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations.

3. The meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify.

**B. Powers**

1. The Board of Adjustment shall have power to grant a variance adjustment in and exception to any of the provisions of this Ordinance to the extent of the following and not further:
  - a. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a District shall be allowed, except as otherwise provided in this Ordinance.
  - b. To hear and determine appeals as to the exact boundaries of Zoning Districts.
  - c. To permit the extension of a District where the boundary line thereof divides a lot in one (1) ownership at the time for the passage of this Ordinance, but such extension of any District shall not exceed one hundred (100) feet.
2. The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing any ordinance adopted pursuant to the provisions of Sections 394.21 to 394.37, Minnesota Statutes, Chapter 559, Laws of 1959, as amended.

**C. Appeals**

1. Any aggrieved person, firm or corporation objecting to the ruling of any administrative official on the administering of the provisions of this Ordinance or other ordinance adopted pursuant to the provisions of Sections 394.21 to 394.3, Minnesota Statutes, Chapter 559, Laws of 1959, as amended, shall have the right to appeal to the Board of Adjustment.
2. Such appeals may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.
3. The decision of the Board shall not be final and any person having an interest affected by said Ordinance shall have the right to appeal to the District Court.

## **D. Findings**

The Board of Adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the Board of Adjustment may require:

1. that there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
2. that the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

## **E. Procedure**

1. Application for any appeal permissible under the provisions of this Section shall be made to the Board of Adjustment in the form of a written application for a Building Permit or for a permit to use the property or premises as set forth in the application.

Upon receipt of any application, the Board of Adjustment shall set a time and place for a public hearing before the Board on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper of the County.

All property owners of record within five hundred feet (500) of incorporated areas and/or one-half (1/2) mile of unincorporated areas where the variance is requested shall be notified by depositing a written notice in the U.S. mails, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the request shall be given proper notice.

2. The Board of Adjustment shall thereupon make its decision upon the application within fifteen (15) days of the public hearing in recommending any adjustment or variance under the provisions of this Section, the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the Ordinance, regulation, or provision to which the adjustment or variance is granted.
3. The applicant for a variance which, in the opinion of the Board of Adjustments, may result in a material adverse effect on the environment, may be required to demonstrate the nature and extent of the effect.

## **Section 19 - Zoning Administrator**

### **A. Enforcing Officer**

The Office of County Planning and Zoning Administrator is hereby established, for which the Board of Commissioners may appoint an Administrator and such other personnel necessary to discharge the duties of the office.

### **B. Duties of the Administrator**

The duties of the Zoning Administrator shall include the following:

1. to determine if applications comply with the terms of this Ordinance;
2. to act as Zoning Inspector for the County and inspect all construction and development to insure that the standards of this Ordinance are being complied with;
3. to be in direct administration of the Zoning Ordinance and the Subdivision Regulatory Ordinance;
4. to issue building permits and any other permits as required by the terms of this Ordinance;
5. to receive and forward to the Board of County Commissioners, County Planning Commission, Board of Adjustment and other appropriate agencies as required or appropriate by State of Minnesota Statutes all applications, documents and actions;
6. to keep or supervise the keeping of all necessary records, plats and maps;
7. to report on a regular basis to the Watonwan County Commissioners the recommendations, findings, and decisions of the commission, boards and committees for final action where necessary;
8. to institute in the name of the County any appropriate actions or proceedings against a violator as set forth in this Ordinance; and
9. to serve as an ex-officio member of the Planning Commission.

## **Section 20 - Building Permits and Certificate of Occupancy**

### **A. Zoning Administrator**

The Office of the County Planning and Zoning Administrator, for which the Board of County Commissioners shall appoint such employee or employees, as deemed necessary, has the authority to administer, enforce and interpret this Ordinance through the proper legal channel, issue building permits and maintain records thereof, and provide a public information bureau relative to this Ordinance.



## **B. Building Permit**

1. No person shall erect, alter, wreck or move any building or part thereof without first securing a building permit, including but not limited to all buildings, building additions, structures, towers, basements, footings, sewer systems, repair of sewer systems, installation or repair of sewage treatment systems, manufactured homes, trailer houses, farm and wildlife ponds (grading and filling permit), earth excavations (grading and filling permit), all farm buildings, grain bins, corn cribs, silos, feed rooms and milk rooms; except where such setback does not comply with the planning of future road construction, in which case a greater setback will be required in accordance with future highway plans. This information shall be supplied by the County Highway Engineer.
2. Application for a building permit shall be made to the Zoning Administrator on forms to be furnished by the County and must be signed by the applicant. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale, showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected, or such information as required by the Zoning Administrator. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance or any other. The Zoning Administrator shall issue the building permit only after determining that the building plans, together with any other required information, comply with the planning of future road construction which shall be furnished by the County Engineer.
3. At any time, a property owner applies for a building permit to include the addition of a bedroom and/or bathroom of a dwelling, the owner shall have an evaluation conducted on his/her septic system in order to determine whether the system conforms to MPCA Chapter 7080- 7081 rules. The county will require upgrading or replacement of any nonconforming system identified by this program within the time frame required in Sec. 12, subd. L of this Ordinance.
4. Building permit fees and other fees, as may be established by resolution of the Board of County Commissioners shall be collected by the Zoning Administrator for deposit with the County. Building Permits are not valid until the required fee is paid.
5. Before any house or other structure is moved onto a lot, the Planning Commission shall report to the County Board whether the structure will be compatible with other development in the area. The applicant shall submit photographs taken from two or more angles of the structure to be moved and photographs of the lot on which the structure is to be located, together with photographs of adjacent lots and structures. These requirements do not apply to construction sheds, agricultural buildings, or temporary structures to be located on a lot for eighteen (18) months or less.
6. All animal feedlots must further comply with the regulations set forth by the Minnesota Pollution Control Agency.
7. All international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during the following construction and development. All section,

quarter (1/4) section and quarter-quarter (1/16) section corners shall be duly described and tied.

8. Any permit is void if building construction is not completed or evidences substantial progress toward completion within one (1) year from date the permit was approved, unless otherwise specified by the Planning and Zoning Administrator.

## **Section 21 - Utility Permits**

### **A. Permits and Information Filing Requirements for Essential Services**

1. Since essential services, as defined by this Ordinance, may have an effect upon urbanizing areas of the County, County land uses, County highway locations, and County parks and recreational areas, the location of all such essential services in any zoning district shall be filed with the County Engineer and the Zoning Administrator prior to commencement of any condemnation action or construction by owner.
2. Essential services not located within highway and street rights-of-way shall follow the following procedure:
  - a. The owner shall file with the County Engineer and the Zoning Administrator such maps indicating the location, alignment and type of service proposed as shall be requested.
  - b. The maps and accompanying data shall be submitted to the Watonwan County Planning Advisory Commission for review and recommendations regarding the relationship to urban growth, land uses, highways and recreation and park areas.
  - c. Following such review, the Zoning Administrator shall make a report of his/her findings and recommendations on the proposed essential services and shall file such report with the County Board.
  - d. Upon receipt of the report of the Zoning Administrator on the planned essential services, the Board of County Commissioners shall consider the maps and accompanying data and shall indicate to the owner its approval or modifications considered desirable under this Ordinance.
3. An application for a permit for essential services located within any County highway or County State Aid highway rights-of-way shall follow the following procedures:
  - a. The applicant shall file with the County Engineer, on forms supplied by the County, an application for such permit accompanied by maps indicating the locations, alignment and type of service proposed.
  - b. The application and accompanying data shall be reviewed by the County Engineer, and the County Engineer may issue the permit after determining that the application is acceptable and in the best interests of the County.

- c. The County Engineer may require in conjunction with the issuance of such permit that:
    - 1) The applicant submits, as built, drawings of the essential service after construction.
    - 2) The applicant constructs the essential service to take into consideration contemplated widening, regrading or relocation of a County highway or County State Aid highway, providing the County owned such additional right-of-way.
  - d. No utility permits shall be required to maintain or reconstruct existing lines where the general alignment of the existing line is maintained.
4. Recognizing the need for adequate and timely service by owners of essential services, the County shall act upon all information filings or permit applications within sixty (60) days of receipt by the County Engineer. Failure to act within sixty (60) days shall constitute approval.

**B. Fees**

1. A utility permit application fee shall be as established by the County Board payable when the application is filed.
2. Any outside costs for consulting services to aid the Planning Commission and/or County Board in making a decision on the utility permit application shall be paid by the applicant. Such fee shall be as determined by the County Board.

**Section 22 - Violations, Penalties and Enforcement**

**A. Violations and Penalties**

Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed seven hundred dollars (\$700) or by imprisonment of not to exceed ninety (90) days. Each day that a violation continues shall constitute a separate offense.

**B. Enforcement**

1. This Ordinance shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.
2. It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels.

3. In the event of a violation or a threatened violation of this Ordinance, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceeding to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

### **Section 23 - Validity**

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

### **Section 24- Repeals**

The former Zoning Ordinance and subsequent amendments adopted by the Watonwan County Board of Commissioners is hereby repealed in its entirety. Any previous Zoning Ordinances which have not been repealed are also hereby repealed.

### **Section 25 - Effective Date**

This Ordinance shall become effective immediately upon its passage and publication.

Adopted this 20th day of December, 2022.



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Chairperson, Watonwan County Board of  
Commissioners

**ATTEST:**

  
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Watonwan County Auditor