

# WINONA COUNTY

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## Z O N I N G

## O R D I N A N C E





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CHAPTER 1: TITLE AND ADOPTION

1.1 Title

This Ordinance shall be known, cited and referred to as the Winona County Zoning Ordinance, except as referred to as "this Ordinance".

1.2 Adoption

This Ordinance shall be in full force and effect upon publication and adoption pursuant to law unless otherwise specified.

Adopted: December 14, 2010.

Effective: March 15, 2011.

\_\_\_\_\_  
James Pomeroy  
Chairperson, Winona County Board of Commissioners

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

Attest: \_\_\_\_\_

\_\_\_\_\_  
Duane Hebert  
Winona County Administrator

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

## CHAPTER 2: INTENT AND PURPOSE

### 2.1 Purpose

This is an ordinance regulating the use of land within Winona County including the regulation of the location, size, use and height of buildings; the arrangement of buildings on lots, and the density of population for the purpose of:

1. Protecting the public health, safety, order, convenience and general welfare.
2. Protecting and preserving agriculture.
3. Conserving the natural and scenic beauty of the County.
4. Conserving natural resources in the County such as streams, wetlands, groundwater, recharge areas, bluffs, steep slopes, woodlands and soils.
5. Minimizing pollution.
6. Protecting existing businesses and facilities.
7. Conserving energy by allowing solar and earth sheltered housing and wind conversion structures.
8. Promoting orderly development and redevelopment of the residential, commercial, industrial, and public areas as well as the preservation of agricultural areas.
9. Providing for the compatibility of different land uses and the most appropriate use of land throughout the County.
10. Encouraging cooperation among governmental agencies to help achieve land use policy goals.
11. Fair and efficient enforcement of land development regulations including the discontinuance of existing uses.
12. Promoting in a financially responsible manner orderly development of the community to insure adequate levels of service in areas of public safety, utilities, transportation and administration.
13. Ensuring the fair and non-discriminatory administration of this Ordinance by allowing administrative decisions rendered by the Planning Department to be appealed through a recognized process.

### 2.2 Relation to Land Use Plan

The Winona County Zoning Ordinance recognizes Winona County's Comprehensive Land Use Plan as the policy to regulate land use and development in accordance with the policies and purpose herein set forth.

### 2.3 Standard Requirements

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statutes, resolution



or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

- C. Except as herein provided, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance.
- D. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no Development Certificate shall be granted that does not conform to the requirements of this Ordinance.
- E. This Ordinance is not intended to abrogate any easement, restrictions, covenants, relating to the use of land or imposed on lands within Winona County by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Ordinance shall prevail.

## 2.4 Uses not Provided for Within Zoning Districts

- 1. Director's determination. The Director may determine that a proposed land use that is not listed may be allowed in compliance with this section. In making this determination, the Director shall first make all of the following findings and may seek the advice of the Winona County Attorney's Office:
  - a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;
  - b. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;
  - c. The proposed use will be consistent with the goals, objectives, and policies of the Comprehensive Plan, or any applicable specific plan; and
  - d. The proposed use is not listed as allowable in another zoning district.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

## 2.5 Monuments

For the purpose of this Ordinance, 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 insure that these markers are maintained in good condition during and following construction and development. All section, one-quarter (1/4) section and one-sixteenth (1/16) section corners shall be duly described and tied out and a report made to the Winona County Surveyor. If a monument is destroyed during construction, it shall be the responsibility of the applicant to replace it.

\*2.4 revised by Winona County Board, November 5, 2013

### 2.6 Amendments

The County Board shall have the authority to enact amendments to the text or map of the Zoning Ordinance in accordance with the provisions of this Section. The County Board, the Planning Commission, the Planning Department, or an owner or person having a contractual interest in property regulated by the Zoning Ordinance may initiate an amendment. In determining whether to grant a requested amendment, the County Board shall consider, among other things, the provisions of the Comprehensive Plan, and recommendations from the Planning Commission and the Planning Department.

The County Board, the Planning Commission, or an owner or person having a contractual interest in property may propose amendments to the text of the Ordinance by forwarding a proposal, which may set forth the purpose and reason for such proposed amendment to the Department. The Department must submit the proposed amendment to the County Administrator for subsequent consideration by the County Board to determine the viability of the amendment. If deemed appropriate, the Planning Department will forward the proposed amendment to the Planning Commission for review.

### 2.7 Separability

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

### 2.8 Authority

This Ordinance is enacted pursuant to the authority granted by Minnesota Statute 394.21. The jurisdiction of this Ordinance shall apply to all areas of Winona County outside of the incorporated limits of municipalities, unless otherwise identified in specified chapters.

## CHAPTER 3: PARCELS OF RECORD / NONCONFORMING STRUCTURES AND USES

### 3.1 Parcel of Record Standards

Parcels of Record may be permitted as a buildable lot if all of the following criteria can be met:

1. The parcel has a minimum of twenty thousand (20,000) square feet suitable for development and sewage treatment system unless connection to a municipal sewer system is available, then they may have less than twenty thousand (20,000) square feet.
2. The lot is a Parcel of Record, as defined.
3. All performance standards and regulations that are applicable in the district for which the parcel is located, except the parcel area, width, or depth requirements shall apply.
4. Adjacent parcels of record containing less than twenty thousand (20,000) square feet under common ownership shall be combined to meet the 20,000 square foot minimum, larger parcels need not be combined.
5. Non-conforming lots of record within the Shoreland District shall conform to the provisions set forth in Section 11.4.9 (1) of this Ordinance.
6. The parcel was created in accordance with the official controls in effect at the time it was created.

In consideration of a Parcel of Record, the following important dates referring to the adoption of ordinances and amendments thereof that affect parcels of record:

August 1, 1970 – Zoning Ordinance and Subdivision Regulations

February 1, 1989 – One non-farm dwelling per  $\frac{1}{4}$ ,  $\frac{1}{4}$  section of land.

October 22, 1996 – Feedlot Rules.

#### 3.1.1 Parcels of Record

1. A lawfully existing parcel, existing at the effective date of this chapter, meeting those requirements of Chapter 3.1, which do not meet current minimum area standards are considered legal non-conforming lots or parcels and therefore are entitled to the same consideration as a legal conforming lot or parcel as defined by the current ordinance.
2. Existing structures located on a legal non-conforming lot or parcel which is deficient in meeting current area standards (lot size), lawfully existing before the effective date of this chapter, may be expanded, enlarged or altered to the extent that they conform to current area standards (setbacks) and are granted permits required by the current ordinance.

\*3.1.1 revised by Winona County Board,  
November 5, 2013

### 3.2 Nonconforming Uses and Structures

#### 3.2.1 Purpose

It is the purpose of this section to classify, regulate, control, and reduce the number and extent of nonconforming buildings, structures, uses, and lots, and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, uses, and lots will be operated, maintained, and regulated. It is necessary and consistent with the establishment of this Ordinance that nonconforming buildings, structures, uses, and lots will be operated, maintained, and regulated. It

is necessary and consistent with the establishment of this Ordinance that non-conforming buildings, structures, uses, and lots not be allowed to continue without restriction. Furthermore, it is the intent of this section that all non-conformities shall be gradually eliminated and eventually brought into conformity.

#### 3.2.2 General Provisions

1. Any established use or structure legally established prior to the adoption of this Ordinance may be continued in like fashion. Any change to an established use or structure shall however be done in accordance with the provisions of this Ordinance.
2. Threats to General Welfare: Non-conforming buildings, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:
  - a. Upon being identified by the Planning Director and upon the owner being notified in writing by the Planning Director, the owner shall provide to the Planning Department a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use investments which will result in the termination or correction of the nonconformity.
    - I. The termination/correction time schedule shall be based upon, but not be limited to factors such as the initial investment and the degree of threat or danger being posed.
    - II. The acceptability of the time schedule shall be determined by the County Board with right of appeal.
    - III. In no case shall a time schedule exceed two (2) years.

#### 3.2.3 Non-Conforming Uses

1. **Effective Date:** The lawful use of building, structure or land existing at the effective date of this Ordinance which does not conform to the provisions of this Ordinance may be continued; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such nonconforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.
2. **Continued Use:** A lawful, non-conforming use shall not be enlarged, but may be continued at the same size and in the same manner of operation as it existed on the date it became legally non-conforming except as hereinafter specified.
3. **Changes to Non-Conforming Uses:**
  - a. When a lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
  - b. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not be so altered to increase the non-conformity.
4. **Discontinuance:** In the event that a non-conforming use of any building or premises is discontinued for a period of more than one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located.
5. **Normal Maintenance:** Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary non-structural repair and incidental alterations which do not extend or intensify the non-conforming use.

#### 3.2.4 Non-Conforming Structures

1. **Restoration:** For a lawful non-conforming building or structure which has been unoccupied for one year or more or substantially damaged by fire, explosion, act of God, or a public enemy, to the extent of 50% or more of its value as determined by the County Assessor at the time of the damage; the same may be rebuilt with a development certificate application filed within 180 days of the damage, except in cases where the structure is located within a designated flood zone. "The same" refers to the exact location and up to the maximum dimensions of the structure prior to the damage.
2. **Alterations:** Alteration and normal maintenance to a lawful nonconforming building or structure may be made provided:
  - a. The alterations do not expand the building size.
  - b. The alterations do not change the building occupancy capacity or parking demand.

\*3.2.4 revised by Winona County Board,  
November 5, 2013

- c. The alteration does not increase the non-conformity of the building or the use.
3. Expansion of Non-Conforming Buildings or Structures:
  - a. Administrative Approvals: The following expansions of lawful non-conforming building and structures may be approved through the administrative permit process by the Planning Director subject to provisions of this Ordinance. The Planning Director shall make a determination that the building expansion will not have external negative impacts upon adjacent properties or public rights-of-way.
    - I. Expansion of buildings found to be non-conforming only by reason of height, yard setback or lot area may be permitted provided the structural non-conformity is not increased and the expansion complies with the performance standards of this Ordinance.
    - II. Lawful non-conforming single family and two (2) family units may be expanded to improve the livability provided the nonconformity of the structure is not increased.
  - b. Conditional Use Permit: Lawful non-conforming commercial, industrial, public, semi-public, and multiple family structures may be expanded on the same lot by conditional use permit provided:
    - I. The expansion will not increase the non-conformity of the building or site.
    - II. The new building expansion will conform with all the applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this section for a deviation from other requirements of this Ordinance unless variances are also approved.
    - III. The request for conditional use permit shall be evaluated based on standards and criteria set forth in Chapter 5 of this Ordinance.

### 3.2.5 Nonconformities – Certain Classes of Properties

1. This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes.
2. A nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within one hundred eighty (180) days of when the property

is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy.

3. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body.
4. When a nonconforming structure in the shoreland district with less than fifty (50) percent of the required setback from the water is destroyed by fire or other peril to greater than fifty (50) percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

### 3.2.6 Overlay Districts

1. Non-conforming buildings and uses within the special protection districts as described in Chapter 11 of this Ordinance (Floodplain, Shoreland) shall be subject to the applicable regulations and standards relating to such buildings and uses in that section. In addition to any requirements imposed by Chapter 11, repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas shall be regulated by Winona County to the extent necessary to maintain eligibility in the National Flood Insurance Program and shall not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.
2. In addition to requirements imposed by Chapter 11, for shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width, the following additional requirements within Section 3.2.5 apply.
3. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
  - a. all structure and septic system setback distance requirements can be met;
  - b. a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
  - c. the impervious surface coverage does not exceed twenty five (25) percent of the lot.
4. In a group of two (2) or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

- a. the lot must be at least sixty six (66) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
  - b. the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
  - c. impervious surface coverage must not exceed twenty five (25) percent of each lot; and
  - d. development of the lot must be consistent with an adopted comprehensive plan.
5. A lot subject to section 3.2.6(4) not meeting the requirements of section 3.2.6(4) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
  6. Notwithstanding section 3.2.6(4), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
  7. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
  8. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.



## CHAPTER 4: RULES AND DEFINITIONS

### 4.1 Rules

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. Unless specifically defined in this Chapter, phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage.
- B. The word "person" includes a firm, association, organization, partnership, trust, governmental agency, company or corporation, as well as an individual.
- C. The singular number includes the plural and the plural the singular.
- D. The present tense includes the past and future tenses.
- E. The word "shall" and "must" are mandatory, and the word "may" is permissive.
- F. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition.
- G. All distances, unless otherwise specified, shall be measured horizontally.
- H. Whenever a calculation is made based upon the provisions herein, if a fraction of a number results, the more restrictive rounding to the whole number shall apply.

#### 4.1.1 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 other than a use permitted hereunder in the zoning district in which such buildings, structure or land shall be located, except for the following:

1. Uses lawfully established prior to the effective date of this Ordinance.
2. Conditional uses allowed in accordance with this Ordinance.

#### 4.1.2 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 5.5.

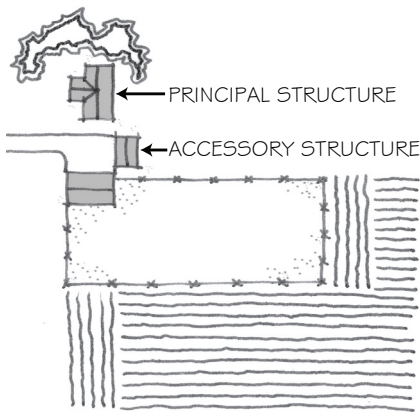


Figure 4.1 Accessory Structure diagram

## 4.2 Definitions

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

**ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or a portion of a principal building which is located on the same lot as the principal building and the use of which is clearly incidental to the use of the principal building. When an accessory structure is attached to a principal structure by a breezeway or roofed passageway, said accessory structure shall be deemed to be part of the principal structure and shall maintain all required setbacks.

**ACCESSORY USE:** A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**ADDRESS NUMBERING GRID:** The Address Numbering Grid for Winona County originates from the northwest corner of Whitewater Township (Township 108N, R. 10W) more accurately described as a point at the intersection of the following lines: Northerly Base line shall be assumed to be the north line of Whitewater Township (Township 108N, Range 10 West) the Westerly Base line shall be the west line of Whitewater Township (Township 108N, Range 10 West) of Winona County, Minnesota.

**ADDRESSING MAPS:** Shall mean the maps used by the Planning Department coordinating the street address system in Winona County to record addresses as they are assigned and to show all the official road names and numbers.

**ADULT BODY PAINTING STUDIO:** An establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

**ADULT BOOKSTORE:** A business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes or motion picture film, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, and a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

**ADULT CABARET:** An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age, and such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of "specified anatomical areas."

**ADULT COMPANIONSHIP ESTABLISHMENT:** A companionship establishment which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

**ADULT ESTABLISHMENT:** A business engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- a. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there either by law or by the operators of such business; or
- b. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

**ADULT HOTEL OR MOTEL:** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

**ADULT MASSAGE PARLOR, HEALTH CLUB:** A massage parlor as required to be licensed or a health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished by an emphasis on “specified sexual activities” or “specified anatomical areas.”

**ADULT MINI-MOTION PICTURE THEATRE:** A business premises within an enclosed building with the capacity for less than fifty (50) persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, and if said material is distinguished or characterized by an emphasis on the depiction of description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

**ADULT MODELLING STUDIO:** An establishment whose major business is the provision, to customers, of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

- ADULT MOTION PICTURE ARCADE:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities or "specified anatomical areas."
- ADULT MOTION PICTURE THEATRES:** A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- ADULT NOVELTY BUSINESS:** A business which has as a principal activity the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.
- ADULT SAUNA:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- ADVERTISING DEVICE:** Any billboard, sign, notice, poster, display or other device in view of the general public which directs attention to a product, place, activity, event, person, institution or business.
- AGENCY:** The Minnesota Pollution Control Agency as established in Minnesota Statutes, Chapter 116.
- AGRIBUSINESS:** A commercial or manufacturing establishment that provides needed services or supplies to the agricultural community. These uses typically consist of: food processing facilities, farm equipment sales, fertilizer and agricultural chemical sales, agricultural biotechnology establishment, grain elevators and feed dealers, corn shelling, hay baling and threshing services, and grist mill services.
- AGRICULTURE:** The use of land for the production (for commercial purposes and on the farm use) of livestock and livestock products, animals and other animal products, poultry and all crops.
- AGRICULTURAL BUILDINGS OR STRUCTURES:** Any building or structure existing or erected on land used principally for agricultural purposes, with the exception of dwelling units.
- AGRICULTURAL RIVERS:** This river class are located in areas with a road network and intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas.

**AGGREGATED PROJECT (WECS):** Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

**AIR POLLUTION:** The presence in the outdoor atmosphere of any air contaminate or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

**ALLEY:** A public right-of-way which affords a secondary means of access to abutting property.

**ANIMAL FEEDLOT OR FEEDLOT:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a total or partial confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry shall be considered to be animal feedlots. Pastures, animal mortality composting facility and rendering pick-up structures shall not be considered animal feedlots under these parts.

**ANIMAL MANURE:** Poultry, livestock or other animal excreta or a mixture of excreta with feed, bedding or other materials.

**ANIMAL UNIT:** A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a 1,000 pound slaughter steer or heifer based upon Minn. Rules 7020. For animals not listed, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds. See Table 4.1.

**APPLICANT:** The entity or person who submits to the County, an application pertaining to land uses and permits.

**AQUIFER:** A geologic unit capable of yielding usable amounts of water.

**AQUIFER RECHARGE AREA:** That area from which water is added to the saturated zone by natural processes such as infiltration of precipitation.

*Table 4.1 Animal Unit Equivalents*

	<b>Animal (one of each)</b>	<b>Per Animal</b>
Dairy	Mature dairy cow over 1,000 lbs	1.4 au
	Dairy cow under 1,000 lbs	1.0 au
	Heifer over 500 lbs	0.7 au
	Calf under 500 lbs, dairy/beef	0.2 au
Beef	Cow and calf pair	1.2 au
	Slaughter steer or stock cow	1.0 au
	Feeder cattle (stocker, heifer or backgrounding)	0.7 au
	Horse	1.0 au
Swine	Swine over 300 lbs.	0.4 au
	Swine 55-300 lbs	0.3 au
	Nursery pig under 55 lbs	0.05 au
	Sheep or lamb	0.1 au
	Goat	0.1 au
Chicken	Laying hen or broiler (liquid manure system)	0.033 au
	Chicken over 5 lbs. (dry manure system)	0.005 au
	Chicken under 5 lbs. (dry manure system)	0.003 au
	Turkey over 5 lbs.	0.018 au
	Turkey under 5 lbs.	0.005 au
	Duck	0.01 au
Other AU based on body weight		

**ARCHAEOLOGICAL ASSESSMENT:** An evaluation to determine the probability that a parcel of land contains a significant archaeological site or burial ground based on the land use history of the parcel, soil analysis, proximity to known archaeological sites as recorded in the database maintained by the State Archaeologist, and predictions generated by a professionally accepted site location model. Winona County requires a qualified professional archaeologist, as defined by Minnesota State Statutes 138.31, Subdivision #14, or entities listed on the Archaeological Contractors List compiled by the State Historic Preservation Office (SHPO) to conduct and prepare the assessment.

**AUTHORIZED REPRESENTATIVE (SSTS):** An employee or agent of the Winona County Planning Department or the County Environmental Services Department.

**AUTOMOBILE SERVICE STATION:** An establishment which offers, as a principal use, the retail sale of gasoline (when stored in underground storage tanks), oil and similar products, and which may include one or more of the following accessory uses: retail sales of groceries and other convenience items, automobile washing, automobile maintenance, including mechanical repairs, automobile towing, including the parking of a wrecker and operative vehicles waiting for immediate repair or tire and battery sales. This definition does not include convenience or similar stores that sell gasoline and oil as an accessory and clearly incidental use to the principal business activity.

**BASEMENT:** Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**BED AND BREAKFAST ESTABLISHMENT:** A single-family dwelling which contains sleeping accommodations in the principal structure or accessory structure for up to six (6) bedrooms for guests for which a fee is charged and which is owned, operated and resided in by the property owner. To qualify as a bed and breakfast establishment, food service is to be limited to a breakfast. This definition includes tourist homes that meet the above standards. Bed and breakfast establishments that exceed the above standards may be classified as a motel/hotel.

**BERM:** A sloped wall or embankment providing protection from weather or acting as a landscaping screen (typically constructed of earthen material, hay bales, or timber framing) used to prevent inflow or outflow of material into/from an area.

**BEST MANAGEMENT PRACTICES (BMP):** Practices proven to be effective and practical that protect and minimize the impacts of various land uses and land use activities on water and land resources. In regards to development, BMPs would include avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices. Best management practices are published by state or other knowledgeable planning and natural resource agencies.

**BIODIGESTER AND WATER RECLAMATION SYSTEMS OR "SYSTEM":** A residential wastewater treatment system that separately collects and segregates greywater from blackwater to be mechanically or biologically treated for reclamation and safe consumptive use or discharge above or below the surface of the ground.

**BIOMASS:** Plant materials and animal waste used especially as a source of fuel.

**BLACKWATER:** Sewage from toilets, urinals, and any drains equipped with garbage grinders.

**BLOCK:** An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, lying between the two (2) nearest intersecting or intercepting streets or rail road right-of-way, unsubdivided acreage or a combination of the above.

**BLUFF:**

A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- Part or all of the feature is located in a shoreland area.
- The slope rises at least 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 25 feet or more above the ordinary high water level averages 25 percent or greater.
- The slope drains toward the waterbody.
- An area with an average slope of less than 18 percent over a distance of 100 feet or more, is not considered part of the bluff.

For bluffs located outside of the Shoreland area, a bluff is a topographical feature such as a hill, cliff or embankment having the following characteristics:

- The total slope must rise at least 100 feet above the toe of the topographical feature in question
- The slope averages 25% or more from toe to the top of the topographical feature

In determining the percentage of slope of a bluff, the horizontal distances of at least one hundred (100) feet parallel to the fall line shall be measured.

**BLUFF IMPACT ZONE:** A bluff and land located within twenty (20) feet from the top of a bluff.

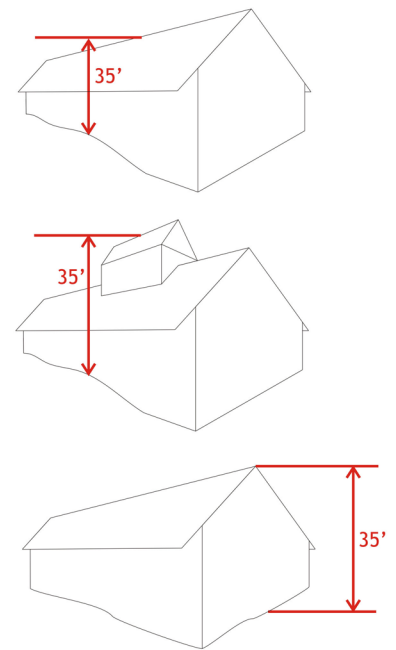


Figure 4.2 Building Height

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

**BOATHOUSE:** A structure designed and used solely for the storage of boats or boating equipment.

**BODY OF WATER:** The part of the earth's surface covered with water.

**BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.

**BUILDING CODE:** An ordinance which establishes and controls the standards for constructing buildings, utilities, mechanical equipment, and all forms of structures and permanent installations and related matters.

**BUILDING HEIGHT:** The greatest vertical distance measured from the average ground elevation adjoining the building to the highest portion of ridgeline, or the highest point of the roof surface if a flat roof.

**BUILDING LINE:** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**BUILDING, PRINCIPAL:** The primary or predominant building or structure on any parcel of land.

**BUILDING SITE:** Used for the purpose of measuring disturbed earthen material as well as the slope of the site. A building site is land that can legally be used to build a structure when said land meets or exceeds all requirements of the Winona County Zoning Ordinance.

**BUILDING, TEMPORARY:** An accessory structure that has no electrical or water connections, no permanent foundation, is built on skids or wheels and can be moved when empty with a farm tractor.

**BURIALS, GRAVES, AND CEMETERIES:** All unplatted cemeteries, graves, or burials that fall under the provisions of Minnesota State Statutes Section #307.08.

**BUSINESS:** A commercial establishment that involves the exchange of cash, goods, or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, or entertainment in any form in varying quantities directly to a consumer or purchaser.

**CALCAREOUS FEN:** Rare and distinctive wetlands, characterized by a substrate of non-acidic peat and dependent on a constant supply of cold, oxygen-poor ground water rich in calcium and magnesium bicarbonates.



**CERTIFICATE OF COMPLIANCE (SSTS):** A document from a licensed sewage treatment inspector fully licensed by the State of Minnesota or a qualified employee provided to the owner of property on which a dwelling is located which is required to have and ISTS and to the County, indicating that said ISTS is not a failing system nor an imminent threat to public health or safety and, for new construction and replacement, is constructed in compliance with Minnesota Rules 7080, as amended.

**CHANGE IN OPERATION (FEEDLOTS):** A physical or operational modification to an existing feedlot operation that results in:

- a. An increase in the number of animal units permitted at the facility;
- b. A change in the type of animals at the facility;
- c. The addition of new buildings and/or animal holding areas;
- d. A change in the operation of an animal feedlot that would affect the storage, handling, utilization or disposal of animal manure.

**CHANGE-IN-USE:** Any use that substantially differs from the previous use of a building or land.

**CHURCH:** A building where persons regularly assemble for religious service and which is maintained and controlled by an organized group for public worship.

**CLASS V INJECTION WELL:** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than twenty (20) people.

The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

**CLEAR-CUTTING:** The removal of an entire stand of timber as an even-age management technique in forestry.

**CLUSTER DEVELOPMENT:** A residential development in which a number of single family dwelling units are grouped on smaller than usual or minimum lots, leaving some land undivided for common use by all residents of the development.

**CLUSTER SYSTEM (SSTS):** A SSTS under some form of common ownership that collects wastewater from two (2) or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**COMMERCIAL USE:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

**COMMISSIONER:** The Commissioner of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes, Section 116.03.

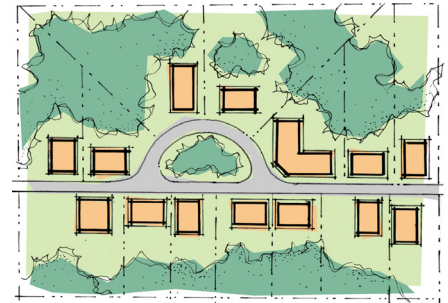


Figure 4.3 Cluster Development

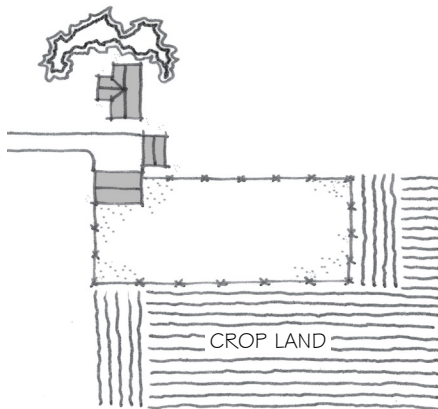


Figure 4.4 Crop Land diagram

\*4.2 CONSTRUCTION MINERALS revised by Winona County Board, November 22, 2016

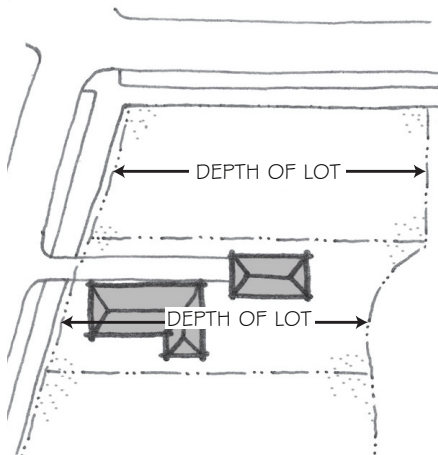


Figure 4.5 Depth of Lot diagram

**COMMERCIAL WECS:** A WECS of equal to or greater than one hundred (100) kW in total name plate generating capacity and a total height of two hundred (200) feet or greater.

**COMPOST:** The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

**COMPOST (CARCASS):** The controlled microbial degradation of organic material by thermophilic organisms to yield a stable humus with little odor.

**COMPOST (MANURE):** A humus-like product derived from the controlled microbial degradation of organic material. Only manure that has completed composting process as described in Minnesota Rule 7020.2150 subpart 2 is compost.

**COMPREHENSIVE PLAN:** A compilation of goals, policy, statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the County and its environs, as defined in the Minnesota County Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**CONCEPT REVIEW:** An informal review that carries no vesting rights or obligations.

**CONDITIONAL USE:** A land use or development as defined by this Ordinance that would not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that:

- a. Certain conditions as detailed in the Zoning Ordinance exist;
- b. The use or development conforms to the Comprehensive Plan of the County; and
- c. Is compatible with the existing neighborhood.

**CONSTRUCTION MINERALS:** The term "construction minerals" includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding for livestock operations, sewer and septic systems, landfills, and sand blasting. The term "construction minerals" does not include "industrial minerals" as defined below.

**CONSTRUCTION-SHORT FORM PERMIT:** A permit issued for an animal feedlot or manure storage area according to parts 7020.0505 and 7020.0535 of Minnesota Rules.

**CONVENIENCE STORE:** A retail store containing less than three thousand (3,000) square feet of gross floor area that is designed and stocked primarily to sell food, beverages, and other household supplies to customers who purchase only relatively few items. The facility has a design to attract a large volume of stop-and-go traffic and may include gasoline sales as an accessory use.

**CORNER LOT:** A lot situated at the junction of and fronting on two (2) or more roads or highways.

**COUNTY:** Winona County, Minnesota.

**COUNTY BOARD:** Winona County Board of Commissioners.

**COUNTY ENGINEER:** The Registered Professional Engineer employed by the County (Highway Engineer) unless otherwise stated.

**COUNTY PLANNING COMMISSION:** The Winona County Planning Advisory Commission.

**CROP LAND:** The use of land for the production of, but not limited to, adopted row or close sown crops, fruits and nuts.

**DAY CARE CENTER:** The care of a child by someone other than a parent, stepparent, legal guardian, eligible relative caregiver, or the spouses in or outside the child's own home for gain or otherwise on a regular basis for any part of a twenty four (24) hour day.

**DECK:** A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.

**DEMOLITION WASTE FACILITY:** The site of placement and processing of waste arising from the construction, repair, maintenance, remodeling and demolition of buildings and structures, including roads.

**DEPARTMENT:** The Winona County Planning Department.

**DEPARTMENT OF NATURAL RESOURCES:** The Minnesota Department of Natural Resources acting on behalf of the Minnesota Natural Resources Commission, and includes any division within the Minnesota Department of Natural Resources.

**DEPTH OF LOT:** The mean horizontal distance between the mean front street line and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage of its width.

**DESIGN FLOW (SSTS):** The daily volume of wastewater for which an SSTS is designed to treat and discharge.

**DESIGN STANDARDS:** The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

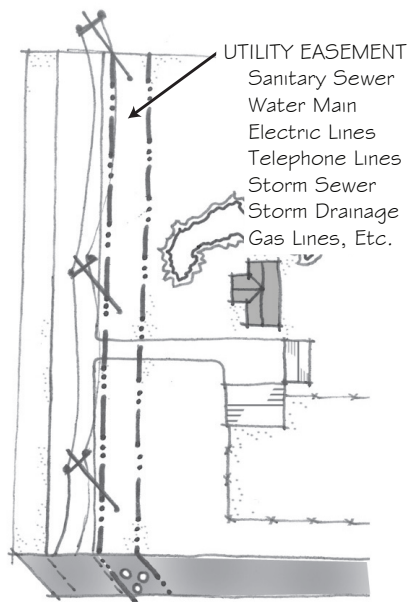


Figure 4.6 Easement diagram



Figure 4.7 Erosion in a pasture. Image by NRCS.

**DEVELOPMENT CERTIFICATE:** A document issued by the Planning Director as required by the Zoning Ordinance stating conditions precedent to the commencement of a use or erection, construction, re-construction, restoration, alteration, conversion or installation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Zoning Ordinance, or authorized variance therefrom.

**DEVELOPMENT PROJECT:** The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alternative, relocation or enlargement of any structure; any mining, excavation, landfill, or land disturbance or any use or extension of the use of land.

**DISPLAY GARDEN:** An area intended for public viewing of gardens, exhibitions, sculptures, or temples.

**DOMESTIC FERTILIZER:** An animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or animal manure that is used as compost, soil conditioners, or specialized plant beds.

**DRAINAGEWAY:** Any natural or artificial water course, including but not limited to, streams, rivers, creeks, ditches, channels, canals, conduits, culverts, waterways, gullies, ravines, or washes, in which waters flow in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

**DREDGING:** The process by which soil materials are mechanically transported by water from a body of water in order to increase the body of water depth.

**DREDGE SPOILS:** The sediment material dredged from the bottom of a body of water.

**DRIVEWAY:** A private roadway providing access to a street or highway.

**DUPLEX:** A dwelling structure on a single lot, having two (2) units, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**DWELLING, MULTIPLE FAMILY:** A residence designed for or occupied by three (3) or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities for each.

**DWELLING, TWO FAMILY:** A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

**DWELLING, SEASONAL:** A freestanding residence designed for or occupied by one (1) family only and used for recreational enjoyment on a temporary basis.

**DWELLING, SINGLE FAMILY:** A free standing (detached) residence designed for or occupied by one (1) family only.

**DWELLING SITE:** A designated location for residential use by one (1) or more persons using a temporary or movable shelter, including camping and recreational vehicle sites.

**DWELLING UNIT:** Two (2) or more rooms within a structure which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities permanently installed shall be included for each dwelling. A manufactured home with the above accommodations, located in areas approved for manufactured homes, shall be considered a dwelling unit. A house trailer, camper trailer, camper bus or tent are not considered dwelling units.

**EARTH SHELTERED BUILDING:** A building constructed so that fifty (50) percent or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of livable space in residential units and of usable space in nonresidential buildings. An earth-sheltered building is a complete structure that does not serve just as a foundation or substructure for above ground construction. A partially completed building shall not be considered earth sheltered.

**EARTH SHELTERED BERM:** An earth covering on the above grade portions of building walls.

**EASEMENT:** A grant by a property owner for the use of a strip of land for the purpose of access, constructing and maintaining utilities: including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

**ECOSYSTEM SERVICES:** The conditions and processes through which natural systems sustain and fulfill human life. Ecosystem services would include water regulation and supply, soil formation, nutrient cycling, flood and storm protection, raw materials such as timber, air quality and carbon sequestration, and biological and genetic resources.

**EMERGENCY SERVICES AGENCY, PUBLIC OR PRIVATE:** Any agency providing police, fire, rescue, or emergency medical services; whose service area boundaries are established by Minnesota Statute or the Commissioner of Public Safety, and which is dispatched through a Public Safety Answering Point.

**EMERGENCY SERVICE AREA OR ZONE (ESA):** The area included within the boundaries of a specified area served by a public or private emergency service agency.

**EQUAL DEGREE OF ENCROACHMENT:** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**EROSION:** The process by which the ground surface is worn away by action of wind or water.

**ESSENTIAL SERVICES:** Overhead or underground transmission and distribution facilities of electric, petroleum, natural gas, communication, steam, or water products by public utilities, governmental agencies or commissions, or as are required for protection of the public health, safety, or general welfare,

Table 4.2 Industrial Waste Codes	
SIC Code(S)	Industry Category
753-7549	Automotive Repairs & Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning & Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber & Wood Products, except Furniture
2500-2599	Furniture & Fixtures
2600-2699	Paper & Allied Products
2700-2799	Printing, Publishing, & Allied Industries
2800-2899	Chemicals & Allied Products
2900-2999	Petroleum Refining & Related Industries
3000-3099	Rubber & Miscellaneous Plastics
3100-3199	Leather Tanning & Finishing
3200-3299	Stone, Clay, Glass, & Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, & Transportation Equipment
500-3599	Industrial & Commercial Machinery & Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, & Controlling Instruments; Photographic, Medical & Optical Goods; Watches & Clocks
3900-3999	Miscellaneous Manufacturing Industries

\*4.2 EXCAVATION, EXTRACTION, AND MINING revised by Winona County Board, November 22, 2016

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.

**EXCAVATION, EXTRACTION, AND MINING:** The terms “excavation, extraction, and mining” include but are not limited to (i) any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling, and storage of all excavated, extracted, or mined minerals and materials, and (iii) the removal and transportation of all excavated, extracted and mined minerals and materials. The terms “excavation, extraction, and mining” apply to all activity occurring at excavation, extraction, or mining sites, including sites identified as quarries and sand pits.

**EXCLUSIVE AGRICULTURAL USE ZONE:** Agricultural land placed under a legal covenant by legal description, thereby prohibiting its use for any purpose other than agricultural for a specified period of time. Additional information and requirements are found in Chapter 40A, Minnesota State Statutes.

**EXTERIOR STORAGE (INCLUDES OPEN STORAGE):** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

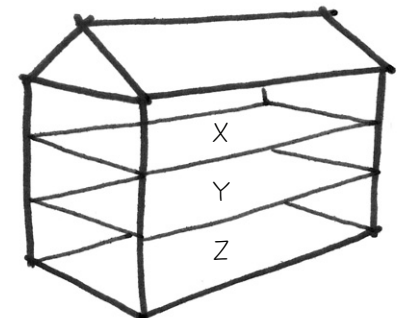
**EXTRACTION PIT:** Any artificial excavation of the earth made by mining from the natural surface of the earth of sod, soil, sand, gravel, stone or natural matter or made by turning, breaking or undermining the surface of the earth, when materials will be removed from the property on which the excavation is being conducted. Excavations for the purpose of impounding water for agricultural purposes are exempted.

**FACILITY ABANDONMENT (WECS):** When the owner or operator intends to permanently cease operations or fails to, for a substantial period of time: (a) pay property taxes; (b) generate electricity; or (c) perform regularly scheduled maintenance.

**FAILURE TO PROTECT GROUNDWATER (SSTS):** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof.

**FALL ZONE (WECS):** The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

- FAMILY:** An individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.
- FARM:** A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory building or structures necessary to the operation of the farm.
- FARMSTEAD:** That area which includes the farm dwelling and other buildings in close proximity to the farm dwelling for management, storage, livestock, etc. for a farming operation.
- FEEDER LINE:** Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.
- FEEDLOT, ANIMAL:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.
- FEEDLOT, (NEW) ANIMAL:** An animal feedlot constructed and operated at a site where no animal feedlot existed previously or that existed previously and has been unused for five (5) or more years.
- FEEDLOT, (PRE-ORDINANCE) ANIMAL:** An animal feedlot that has existed prior to ordinance adoption date.
- FEEDLOT, (POST-ORDINANCE) ANIMAL:** A new animal feedlot proposed at a site where no feedlot existed on the Ordinance adoption date.
- FEEDLOT, (PRE-EXISTING) ANIMAL:** An animal feedlot that has been unused for a period of five (5) years or more and existed prior to December 10, 1996.
- FEEDLOT OFFICER:** A County employee appointed by the Planning Director and under the general supervision of the Planning Director to administer the provisions of this Ordinance. This employee shall have the same duties and powers as a Feedlot Officer as defined by MN State Rule 7020.
- FEEDLOT OPERATING PERMIT:** A permit issued by the County Feedlot Officer which may contain requirements, conditions, or schedules for achieving compliance with the discharge standards and requirements for management of animal manure, construction, or operation of animal holding areas or manure storage areas.



FLOOR AREA = X+Y+Z

Figure 4.8 Sample of Floor Area calculation

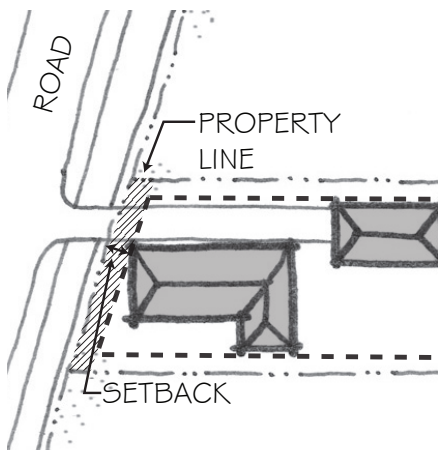


Figure 4.9 Front yard setback diagram

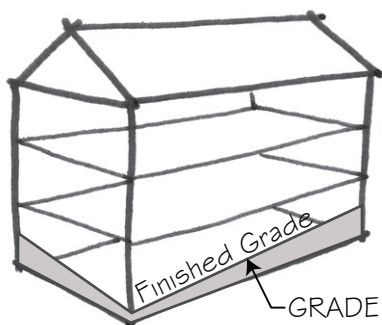


Figure 4.10 Grade diagram

**FEEDLOT OPERATOR:** An individual, a corporation, a group of individuals, a partnership, a joint venture, a owner or any other business entity having charge or control of one (1) or more livestock feedlots, poultry lots or other animal lots.

**FEEDLOT PERMIT:** A document issued by the Agency or County Animal Feedlot Pollution Control Officer which may contain requirements, conditions, or schedules for achieving compliance with the discharge standards and requirements for management of animal manure construction or operation of animal holding areas or manure storage areas. Permits issued under this chapter are NPDES, state disposal system, interim, construction short-form permits, and operating permit.

**FEEDLOT RUNOFF:** The movement of water from a feedlot, either in the form of rainfall or as water from a waterway, ditch, etc., passing through a feedlot, carrying particles of manure as well as soil into a body of water and thereby constituting a potential pollution hazard.

**FEEDLOT SITE:** The area where an animal feedlot is located. Two (2) feedlot sites shall be considered separate if the sites can be sold

independently of the other without the need for any modifications to either site. This includes each site having its own road access, water supply, utilities as well as separate land parcels.

**FENCE:** Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

**FILL:** Any soil, earth, sand, gravel, rock or any similar material deposited, placed, pushed, pulled or transported and shall include the conditions resulting there from.

**FINAL PLAT:** A drawing or map of a subdivision, meeting all of the requirements of the County and the Minnesota State Statutes regarding the platting of land in such form as required by the purposes of recording.

**FINANCIAL ASSURANCE:** Reasonable assurance from a credit worthy party, sufficient examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter or credit.

**FINANCIAL SERVICES:** A business such as agricultural financial credit institutions, credit unions, banks and branch banks, bond companies, insurance companies, savings and loan associations, stock and securities brokers and analysts, investment companies, and similar establishments.

**FLOOD:** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**FLOOD FREQUENCY:** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.



- FLOOD FRINGE:** That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Winona County.
- FLOODPLAIN:** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- FLOOD-PROOFING:** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. For the purpose of this Ordinance, the classification of buildings and structures (FP-1 through FP-4) shall be defined in Section 210.1 of the 1972 Edition of “Flood Proofing Regulations and as subject to amendment in the MN Rules Chapter 1335 Floodproofing.
- FLOODWAY:** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- FLOOR AREA:** The sum of the gross horizontal areas of all floors of a building measured from the exterior walls, including basements and attached accessory building.
- FOOD PROCESSING FACILITY:** The preparation, storage, or processing of food products. Examples of these include, but not limited to: bakeries, dairies, contract sorting, grading, and packaging services for fruits and vegetables, production of animal fat and oil, canning of fruits, vegetable, preserves, jams, jellies, canning of specialty foods, preparation of cereals, production of natural and processed cheese, production of condensed and evaporated milk, wet milling of corn, production of creamery butter, drying and dehydrated fruits and vegetables, preparation of feeds for animal and fowl, production of flour and other grain mill products, blending and preparation of flour, fluid milk processing, production of frozen fruits, fruit juices, vegetables, and other specialties, meat packing (not including a slaughterhouse or rendering facility) fruit and vegetable pickling, vegetable sauces and seasoning, and salad dressing preparation, poultry and small game dressing and packing, providing that all operations be conducted within an enclosed building, production of shortening, table oils, margarine and other edible fats and oils, milling of soybean oil, milling of vegetable oil, sugar processing and production, production of wine, brandy, and brandy spirits, and spring water bottling.
- FORESTRY:** The use and management, including logging, of a forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of woods roads, skidways, landings and fences.
- FOREST LAND CONVERSION:** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.



Figure 4.11 Impervious surface type - parking lot. Image by EPA

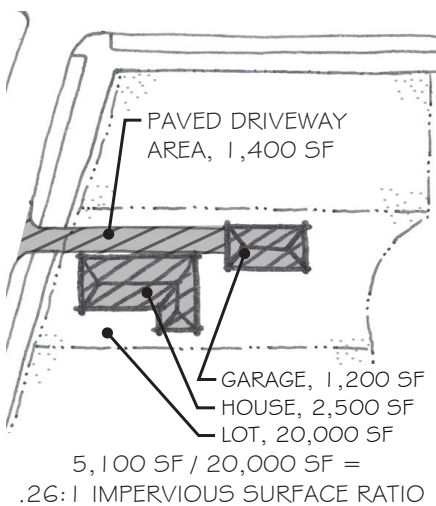


Figure 4.12 Impervious surface ratio diagram

**FRONT YARD SETBACK:** The minimum distance between a structure and street right-of-way or lot line. Distances are measured perpendicularly from the property line to the most outwardly extended portion of the structure.

**FRONTAGE ROAD:** A service road, usually parallel to a highway designed to reduce the number of driveways that intersect the highway.

**GARAGE, PRIVATE:** A garage which is erected as an accessory building.

**GARAGE, PUBLIC:** Any premises, except those described as a private garage, used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sale.

**GENERAL DEVELOPMENT LAKES:** These lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development at the time of the original classification. These lakes often are extensively used for recreation.

**GEOHERMAL HEAT PUMP SYSTEM:** A heating and/or an air conditioning system that uses the constant temperature of the earth, instead of outside air, in order to heat a building's air or water supply. It involves a refrigerant liquid being pumped through pipes in the ground to use available heat in the winter and puts heat back into the ground in the summer to be cooled.

**GRADE:** The average of the finished level at the center of the exterior walls of the building. For an earth-sheltered building, grade means the average of the finished level at the center of the lot. For a building with earth berms but less than fifty (50) percent earth covering, grade means the average of the finished level at the center of the building at the beginning of the earth berm.

**GRADING AND FILLING:** Grading is the process of stripping the land surface of soil to make it uniform and filling is the process of taking earthen material and/or vegetation and depositing the material on the land.

**GREYWATER:** Sewage that does not contain toilet wastes or waste from garbage grinders.

**GUEST COTTAGE:** A structure used as a dwelling unit that may contain sleeping spaces, kitchen and bathroom facilities in addition to those provided in the primary dwelling unit in a lot.

**HARDSHIP:** As defined in Minnesota Statutes, Chapter 394: Hardship as used in connection with granting a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality.

**HIGHWAY:** Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; or any public thoroughfare or vehicular right-of-way with a Winona County numerical route designation.

**HIGHWAY, MAJOR INTERCITY AND REGIONAL:** State and federal highway routes within the County.

**HIGHWAY, PRINCIPAL ARTERIAL:** The principal County highways; such arterial highways interconnect communities within Winona County and adjoining counties, and carry traffic between principal land use districts within Winona County.

**HOME OCCUPATION:** An enterprise of a charter which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use.

**HORSE STABLE:** A building in which livestock, especially horses, are kept. It most commonly means a building that is divided into separate stalls for boarding of individual animals commercially.

**IMMEDIATELY INCORPORATED:** Manure or Process Wastewaters tilled into the soil within twenty-four (24) hours of application and prior to rainfall.

**IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY (SSTS):** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a Licensed SSTS inspection business.

**IMPERVIOUS SURFACE:** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

**IMPERVIOUS SURFACE RATIO:** The impervious surface ratio is a measure of the intensity of use of a parcel of land. It is measured by dividing the total area of all impervious surfaces within the site by the lot area. Porous pavement/material shall be exempt.

**INCORPORATION:** The mixing of manure or septage within the topsoil, concurrent with the application or immediately thereafter, by means such as discing, plowing, rototilling, injection or other mechanical means.

**INCREASED COST OF COMPLIANCE (ICC):** The coverage by a standard flood insurance policy under the National Flood Insurance Policy (NFIP) that provides for the payment of a claim for the cost to comply with the State of Minnesota and this ordinance after a direct physical loss by flood, when Winona County declares the structure to be "substantially" or "repetitively" flood-damaged. ICC coverage is provided for in every standard NFIP flood insurance policy and will help pay for the cost of floodproof, relocate, elevate or demolish the structure.

\*4.2 CONSTRUCTION MINERAL OPERATIONS revised by Winona County Board, November 22, 2016

## Chapter 4

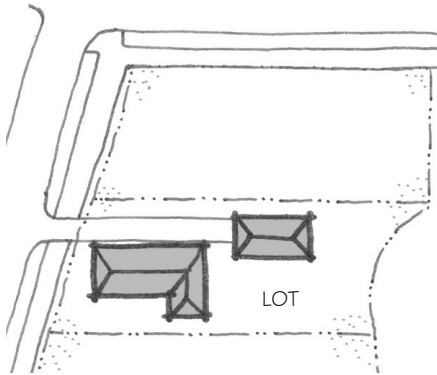


Figure 4.13 Lot diagram

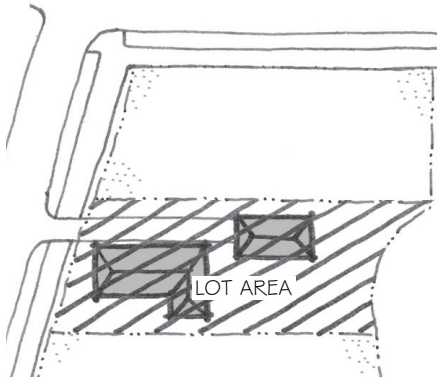


Figure 4.14 Lot Area diagram

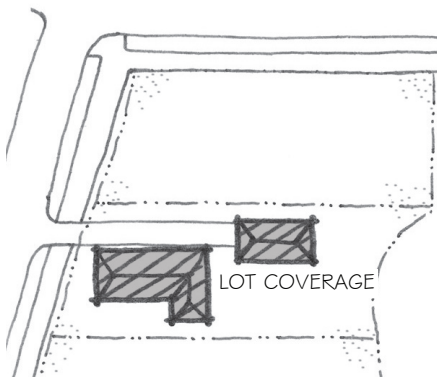


Figure 4.15 Lot coverage diagram

**INDIRECT LIGHTING:** Lighting that is located either internally within a sign or which is directed and/or shielded so that only the face of a sign is illuminated from external locations.

**INDUSTRIAL MINERAL OPERATIONS:** Includes each and all of the following:

- a. Excavation, extracting, and mining, including but not limited to any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping or removing industrial minerals from the land surface or underground. Excavation, extraction, and mining applies to all activities occurring at excavation, extraction, or mining sites, including sites commonly identified as quarries and sand or extraction pits within Winona County that are under the jurisdiction of Winona County Zoning Authority.
- b. Processing, including but not limited to preparation, processing, washing, cleaning, screening, filtering, crushing, drying, sorting, and refining of all excavated, mined, stockpiled, stored or other industrial minerals either at the mining site or at another site within Winona County.
- c. Storing or stockpiling of all excavated, extracted, mined, or other industrial minerals either at the mining site or at any other site within Winona County.
- d. Hauling or transport, including, but not limited to, the loading, unloading, transfer, hauling, moving and transporting of industrial minerals extracted from a mine located in Winona County that are at that mining site, a transfer facility, or other site within Winona County by truck, or other means of transport.

\*4.2INDUSTRIAL MINERALS revised by  
Winona County Board, November 22, 2016

- INDUSTRIAL MINERALS:** The term “industrial minerals” includes naturally existing high quartz level stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals as defined above.
- Silica sand is categorized as an industrial mineral by the Minnesota Department of Natural Resources and the North American Industry Classification System under classification no. 212322.
- “Silica sand” has the meaning given in Minnesota Statutes, section 116C.99, subd. 1 (d): “‘Silica sand’ means well-rounded, sand-sized grains of quartz (silicon dioxide), with very little impurities in terms of other minerals. Specifically, the silica sand for the purposes of this section is commercially valuable for use in the hydraulic fracturing of shale to obtain oil and natural gas. Silica sand does not include common rock, stone, aggregate, gravel, sand with a low quartz level, or silica compounds recovered as a by-product of metallic mining.” Minn. State. Section 116C.99, subd. 1 (d)
- “Silica sand project” has the meaning given in Minnesota Statutes, section 116C.99, subd, 1 (e): “‘Silica Sand project’ means the excavation and mining and processing of silica sand; the washing, cleaning, screening, crushing, filtering, drying, sorting, stockpiling, and storing of silica sand, either at the mining site or at any other site; hauling and transporting of silica sand; or a facility for transporting silica sand to destinations by rail, barge, truck, or other means of transportation.” Minn. Stat. Section 116C.99, subd. 1 (e).
- INDUSTRIAL USE:** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.
- INDUSTRIAL WASTE:** Any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.
- INDUSTRIAL WASTE (SSTS):** 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.
- INOPERABLE VEHICLE:** Automobiles, trucks and other vehicles not currently licensed by the state, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outdoors.
- INSPECTOR (SSTS):** An individual qualified to review proposed plans and inspect SSTS and who meets the license and registration requirements of the Minnesota Pollution Control Agency.
- INTENSIVE VEGETATION CLEARING:** The complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- INTERIM PERMIT:** A permit issued for a feedlot by the Agency or the County Feedlot Officer, which expires no longer than twenty-four

(24) months from the date of issuance that identifies the necessary corrective measures to abate potential pollution hazards.

**IRRIGATION SYSTEM:** Any structure or equipment, mechanical or otherwise, used to supply water to cultivate fields or supplement normal rainfall including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.

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

**KARST:** The type of geologic terrain underlain by carbonate rocks where significant solution of the rock has occurred due to flowing ground water.

**KENNEL:** Any structure or premises on which four (4) or more dogs over four (4) months of age are kept for sale, breeding, profit, etc., for six (6) or more months.

**LANDFILL, DEMOLITION WASTE:** A place for the disposal of demolition wastes including waste building materials, packaging and rubble resulting from construction, remodelling, repair and demolition.

**LANDFILL, SANITARY:** A method of disposing of solid waste on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

**LAND DISTURBANCE:** Any changes or alterations of the land surface including, but not limited to, removing vegetative cover, excavating, grading and filling, and the construction of impervious surfaces and structures, excluding standard agricultural practices.

**LAND OCCUPIER:** Any person, firm, corporation, municipality or other legal entity who holds title to, or is in possession of, any lands lying within the district, whether as owner, lessee, renter, tenant or otherwise. Where the term land occupier is used in this Ordinance, the term shall include both the owner and the occupier of the land when they are not the same.

**LAND SPREADING (SSTS):** The placement of septage of human waste from septic or holding tanks on or into the soil surface.

**LIMIT OF WORK:** The area that is cleared of vegetation in order to maneuver equipment and store materials during the construction of a new residential dwelling.

**LIVESTOCK WASTE LAGOON:** A diked enclosure for disposal of livestock wastes by natural process.

**LOADING/UNLOADING AREAS:** The portion of any lot which is required to be reserved to the loading or unloading of vehicles at any nonresidential establishment according to the standards of this Ordinance. A loading area may not use the same area as a parking area.

**LODGING ROOM:** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking

facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

**LOT:** A parcel of land, whether subdivided or otherwise legally described and recorded or approved by the county as a lot and which is occupied or intended for occupancy by one (1) principal building or principal use together with any accessory building and such open space as required by this Ordinance and having its principal frontage upon a road where access is being gained.

**LOT AREA:** The area of a horizontal plan bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, stream, floodplain zone or floodway.

**LOT COVERAGE:** The area of a lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating lot coverage. Only the above grade portions of an earth sheltered building should be included in lot coverage calculations.

**LOT DEPTH:** The lot depth is the mean horizontal distance between the front line and the rear lot line of a lot, measured within the lot lines.

**LOT WIDTH:** The lot width is the mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.

**LOT LINE:** A property boundary line of any lot held in separate ownership except that where any portion of the lot extends into the abutting alley or street, the lot line shall be deemed to be the street or alley line.

**LOT, CORNER:** A lot situated at the junction of an abutting two (2) or more intersecting streets or roads; or a lot at the point of deflection in alignment of a single street or road.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

**MAINTENANCE AND MINOR REPAIRS:** Includes roofing, residing, new or repair of windows, doors, floors and eaves troughs, repainting and stuccoing of exterior, interior redecorating, foundation or basement repair, new heating, air conditioning and plumbing equipment or repair of present equipment; each of which may be done in total, or in part, except the structure shall not be altered or extended in any way unless a Development Certificate is obtained.

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

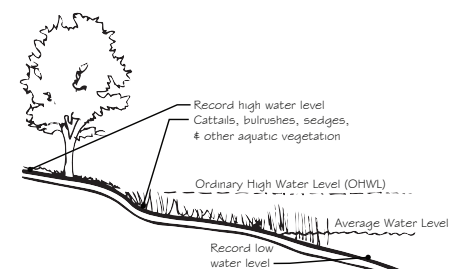


Figure 4.16 Ordinary High Water Level diagram.

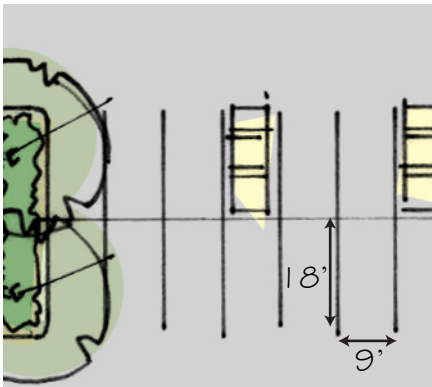


Figure 4.17 Parking Space dimension diagram

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

**MANUFACTURED HOME:** A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development or the head of any successor agency with the responsibility for enforcement of federal laws relating to the manufactured homes and complies with the standards established under Minnesota Statutes Chapter 327. The term "manufactured home" does not include the term "recreational vehicle."

**MANUFACTURED HOME PARK:** Any site, lot, field or tract of land under single ownership designed, maintained or intended for the placement of three (3) or more occupied manufactured homes. "Manufactured Home Park" shall include any buildings, structure, vehicle or enclosure intended for use as part of the equipment of such manufactured home park.

**MANUFACTURED HOME STAND:** The part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures or additions.

**MANURE-CONTAMINATED RUNOFF:** A liquid that has come into contact with animal manure and drains over land from any animal feedlot, manure storage area, or animal manure land application site.

**MANURE, SOLID:** Manure which has at least a fifteen (15) percent solid content.

**MANURE, LIQUID:** Manure which has less than a fifteen (15) percent solid content.

**MANURE MANAGEMENT PLAN:** A plan, which describes manure application and utilization techniques.

**MANURE STORAGE AREA:** An area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to part 7020.2000 subpart 3, are not manure storage areas.

**MASS GATHERING:** a gathering regulated and defined in the Winona County Large Assemblies Ordinance.



**METEOROLOGICAL TOWER (WECS):** Towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

**METES AND BOUNDS DESCRIPTION:** A description of real property which is not described by reference to a lot or block shown on a map or a recorded plot, but is described by starting at a known point and describing the bearing and distance of the lines forming the boundaries of the property.

**MICRO WECS:** A WECS of five (5) kW nameplate generating capacity or less and having a total height of forty five (45) feet or less.

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

**MNDNR COMMISSIONER:** Minnesota Commissioner of Natural Resources.

**MOTEL/HOTEL:** A structure or portion thereof or a group of structures which provide sleeping accommodations in separate units or rooms for transients on a daily, weekly, or similar short-term basis and where no common facilities are shared. Such an establishment may be designated as a hotel, motel, resort, inn, court, motor inn, motor lodge, tourist cabin, tourist court, apartment hotel, or otherwise. A hotel or motel may include separate cooking facilities for each unit. It shall not include use of rooms for retail or other commercial purposes for a period exceeding seven (7) days, nor does it include group housing quarters or bed and breakfast establishments.

**MPCA:** Minnesota Pollution Control Agency.

**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 five thousand (5,000) gallons per day to a maximum of ten thousand (10,000) gallons per day.

**NACELLE:** The body/shell/casing of a propeller-type wind turbine, covering the gearbox, generator, blade hub, and other parts.

**NATURAL ENVIRONMENTAL LAKES:** These lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use.

**NON-COMMERCIAL WECS:** A WECS between five (5) kW and ninety-nine (99) kW in total name plate generating Capacity and a total height between forty-six (46) feet and one hundred ninety-nine (199) feet.

**NOTICE OF NONCOMPLIANCE (SSTS):** A written document issued by the Department notifying a system owner that the owner's onsite/

\*4.2 PRACTICAL DIFFICULTY revised by  
Winona County Board, August 9, 2011

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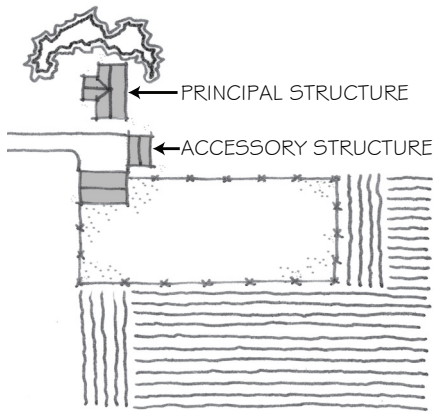


Figure 4.18 Principal Structure diagram

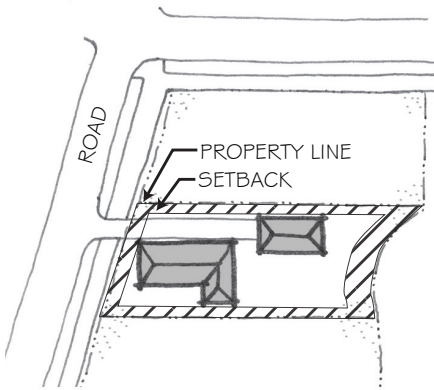


Figure 4.19 Property Line diagram

cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

**NUISANCE, GENERAL:** Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

**NUISANCE, PUBLIC:** Whoever by an act or failure to perform a legal duty intentionally does any of the following:

- a. Is guilty of maintaining a public nuisance, which is a misdemeanor;
- b. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- c. Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

**OBSTRUCTION (WATERWAY):** Any dam, wall, wharf, embankment, levee, dike, pike, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory floodplain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by water.

**OFFICIAL CONTROLS:** Legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of the County and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision regulations, site plan regulations, sanitary codes, building codes, housing codes, official maps and zoning maps.

**OFF-PREMISE ADVERTISING DEVICE:** A device which directs attention to a business, profession, activity, commodity, service or entertainment offered or existing elsewhere than upon the same lot where such device is displayed.

**OFF-STREET LOADING SPACES:** A space accessible from a street, alley or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one (1) vehicle of the type typically used in the particular business.

**OFFICIAL SIGNS:** Signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

**ON-PREMISE ADVERTISING DEVICE:** A device which directs attention to a business, profession, activity, commodity, service, or entertainment, offered or existing on the same lot where such device is displayed. An on-site device may also display a non-commercial message.

**ORDINARY HIGH WATER MARK (OHWM):** The boundary of public waters and wetlands, and shall be an elevation delineation 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.

**OTHER ESTABLISHMENT (SSTS):** Any public or private structure other than a dwelling that generates sewage that discharges to an MSTs.

**OUTDOOR WOOD-FIRED BURNER:** A wood-fired burner, stove or boiler that is not located within or attached to a building intended for habitation for humans or domestic animals.

**OVERLAY DISTRICT:** A set of zoning requirements which are described in the text of this Ordinance and applied to specific areas of the county in addition to the requirements of underlying use districts. Development within overlay districts must conform to the requirements of both districts.

**OWNER (FEEDLOT):** All persons having possession, control or title to an animal feedlot.

**PARCEL OF RECORD:** A parcel of land, either in the form of a platted lot or a metes and bounds plat, which has been recorded with the County Recorder's Office prior to the passage of this Ordinance (1970), and which conformed to the official controls in effect at the time when the ordinance or amendments thereof were originally adopted, and which may not now conform to the lot width, depth and area requirements.

**PARK, PUBLIC:** A park is a protected area, in its natural or semi-natural state, or planted, and set aside for human recreation and enjoyment, or for the protection of wildlife or natural habitats.

**PARKING LOT:** An off-street, ground level open area that provides temporary storage for motor vehicles.

**PARKING SPACE:** A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile nine foot wide by eighteen foot long (9'x18').

**PARTIAL CONFINEMENT:** Livestock are located where they have access to both inside a feedlot building and outside in a feedlot confinement area or pasture.

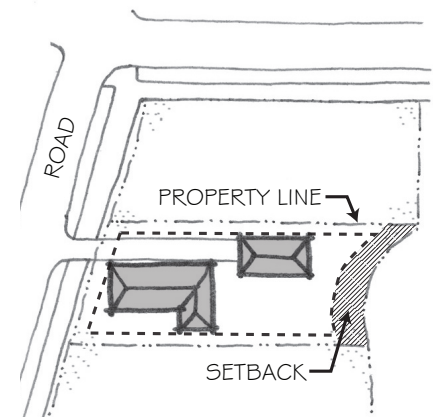


Figure 4.20 Rear yard setback diagram

**PASTURES:** Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative ground cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or water devices.

**PEDESTRIAN WAY:** A public or private right-of-way across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

**PERCENTAGE OF GRADE:** The distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance. In a subdivision review, the measurement will be taken at the road center line.

**PERSON:** Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.

**PERVIOUS SURFACE:** A surface which allow the penetration of water into the ground.

**PHASE ONE ARCHAEOLOGICAL SURVEY:** An effort to locate and record archaeological sites. The survey shall be conducted in accordance with the State Historic Preservation Office (SHPO) document entitled SHPO Manual for Archaeological Projects in Minnesota (July 2005), or as amended. Winona County requires a qualified professional archaeologist, as defined by Minnesota State Statutes 138.31, Subdivision #14, or entities listed on the Archaeological Contractors List compiled by the State Historic Preservation Office (SHPO) to conduct and prepare the survey.

**PLAIN:** An area of land with relatively low relief, meaning that it is flat.

**PLANNING DEPARTMENT:** The Winona County Planning Department.

**PLANNING DIRECTOR:** The Planning Director of the Winona County Planning Department or the Director's authorized representative.

**PLOT:** A tract of land other than one (1) unit of a record 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 including as a minimum such open space as required under this Ordinance.

**PORTABLE BUILDING:** A structure that can be moved with wheels or skids when empty.

**POTENTIAL POLLUTION HAZARD:** An animal feedlot or manure storage area that:

- a. Does not comply with the requirements of parts 7020.20000 to 7020.2225 and has not been issued an SDS or NPDES permit establishing an alternative construction or operating method; or
- b. Presents a potential or immediate source of pollution to waters of the State as determined by inspection by a County Feedlot Pollution Control Officer or Agency staff by evaluating the following:
  - I. The size of the animal feedlot or manure storage area;
  - II. The amount of pollutants reaching or that may reach waters of the state;

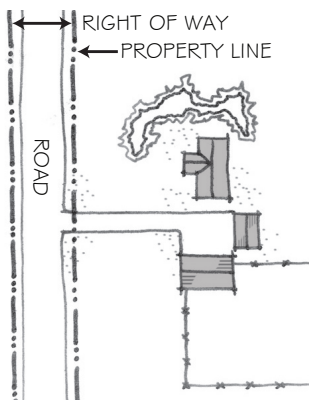


Figure 4.21 Road and Right-of-Way relationship diagram

- III. The location of the animal feedlot or manure storage area relative to waters of the state;
- IV. The means of conveyance of animal manure or process wastewater into waters of the state; and
- V. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state.

**PRACTICAL DIFFICULTY:** As defined in Minnesota Statutes, Chapter 394: Practical Difficulty as used in connection with granting a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality.

**PRELIMINARY PLAT:** A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

**PRINCIPAL USE OR STRUCTURE:** All uses or structures that are not accessory uses or structures.

**PROCESS WASTEWATERS:** Waters and/or precipitation, including rain or snow, which comes into contact with manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from the production of animals, poultry, or direct products, such as milk or eggs and high moisture content material.

**PROCESSING OF INDUSTRIAL MINERALS:** The term "processing of industrial minerals" includes the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined industrial minerals, whether at the mining site or other place in Winona County.

**PROFESSIONAL ENGINEER:** A qualified individual who is licensed as a professional engineer in any of the United States.

**PROPERTY LINE:** The legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway and the like.

**PROPERTY LINE (WECS):** The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

**PROTECTIVE COVENANTS:** Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

**PUBLIC CONSERVATION LANDS:** Land owned in fee title by County, City, State or Federal agencies and managed specifically for [grassland] conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production

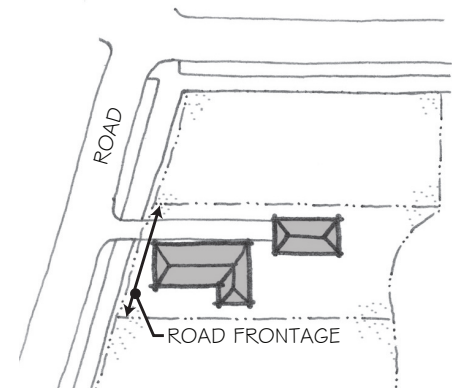


Figure 4.22 Road Frontage diagram

\*4.2 PROCESSING OF INDUSTRIAL MINERALS revised by Winona County Board, November 22, 2016

## Chapter 4

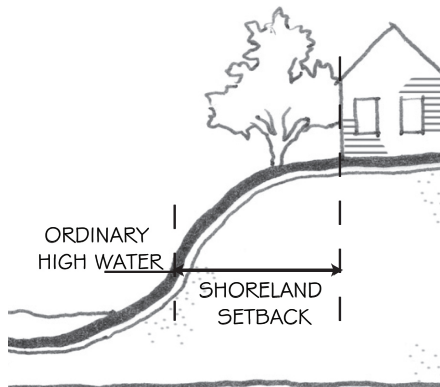


Figure 4.23 Shoreland Setback diagram.

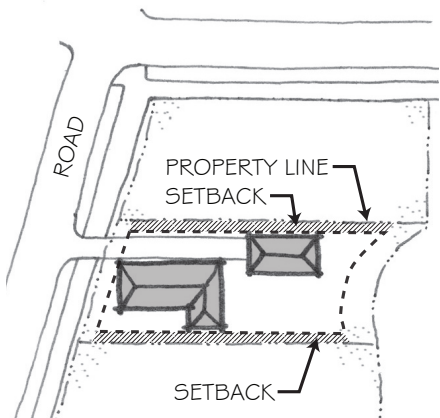


Figure 4.24 Side yard setback diagram.



Figure 4.25 Sinkhole in Minnesota. Image by University of Minnesota Geology.

Areas. For the purposes of this Section, public conservation lands will also include lands owned in fee title by nonprofit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or nonprofit conservation organizations.

**PUBLIC LAND:** Land owned or operated by municipal, school district, county, state or other governmental units.

**PUBLIC WATERS:** Defined in Minnesota Statutes 103G.005, Subd. 15 as follows:

a. "Public waters" means:

- I. Water basins assigned a shoreland management classification by the Commissioner under Sections 103F.201 to 103F.221;
- II. Waters of the State that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;
- III. Meandered lakes, excluding lakes that have been legally drained;
- IV. Water basins previously designated by the Commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;
- V. Water basins designated as scientific and natural areas under Section 84.033;
- VI. Water basins located within and totally surrounded by publicly owned lands;
- VII. Water basins where the State or Federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;
- VIII. Water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;
- IX. Natural and altered watercourses with a total drainage area greater than two (2) square miles;
- X. Natural and altered watercourses designated by the commissioner as trout streams; and,
- XI. Public waters wetlands, unless the statute expressly states otherwise.

b. Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

**PUBLIC WATERS WETLANDS:** Defined in Minnesota Statute 103G.005, Subd. 15a. as follows:

"Public waters wetlands" means all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten (10) or more acres in size in

unincorporated areas or two and a half (2.5) or more acres in incorporated areas as displayed on a county wetlands map, located in the Planning Department.

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

**RACE TRACK:** A race track (or 'racetrack' or 'racing track' or 'racecourse') is a purpose-built facility and/or structure upon which racing of animals (example: horse racing or dog racing), automobiles, motorcycles, all terrain vehicles, bicycles or snowmobiles occurs. A racetrack may also feature grandstands or concourses.

**REACH:** A hydraulic engineering term to describe longitudinal segments of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

**REAL ESTATE SIGN:** A sign offering property (land and/or buildings) for sale, lease or rent.

**REAR YARD SETBACK:** The minimum horizontal distance between a structure and rear lot line. Distances are measured perpendicularly from the property line to the most outwardly extended portion of a structure.

**RECORD DRAWINGS (SSTS):** 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.

**RECREATIONAL CABIN:** A structure used for seasonal and/or recreational use, not to be considered or used as a primary dwelling.

**RECREATIONAL VEHICLE:** A vehicle that is built on a single chassis, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

**RECREATION CAMPGROUND, COMMERCIAL:** A parcel of land upon which five (5) or more campsites are located, established or maintained for occupancy by camping units of the general public as a temporary living quarters for recreation, education or vacation purposes on a daily, nightly, weekly or monthly basis or combination thereof.

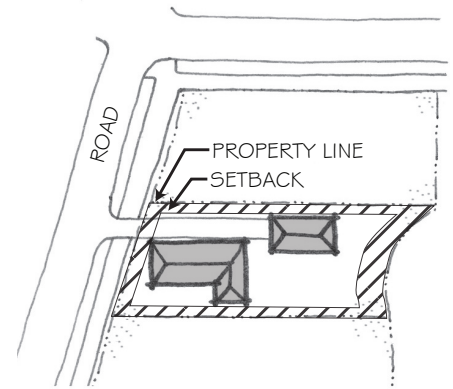


Figure 4.26 Setback diagram



Figure 4.27 Roof-mounted Residential Solar Collectors, Image by Department of Energy

**RECREATION CAMPGROUND, FULL SEASON:** A parcel of land upon which five (5) or more campsites are located, established or maintained for occupancy by camping units as temporary living quarters leased on an annual seasonal basis, not on a daily, nightly, weekly or monthly basis.

**RECREATION CAMPGROUND, INCIDENTAL:** A parcel of land upon which four (4) or less units are parked as temporary living quarters for recreation, education or vacation purposes. Occupancy by camping units shall be on a very limited basis.

**REGIONAL FLOOD:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100) year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

**REGISTERED LAND SURVEY:** A survey map of registered land designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.

**REGULATORY FLOOD PROTECTION ELEVATION:** 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 floodplain that result from designation of a floodway.

**RESORT:** A development consisting of buildings, camping spaces, parking areas, recreation areas, for lease or rent for temporary residence or less, on one (1) tract of land, under one (1) ownership for the purpose of vacationing, relaxation or recreation.

**RIGHT-OF-WAY:** The land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

**RIPARIAN:** Adjacent to or living on the shore of a water body.

**RIVULET:** A small stream.

**ROAD:** A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

**ROAD, CUL-DE-SAC:** A minor street or road with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**ROAD, PRIVATE:** A road that has not been accepted by Winona County or other governmental entity.

**ROAD FRONTAGE:** The boundary of a lot that abuts a public or private road. Road/Street frontage must be acquired on existing public roadways (not platted), and the frontage must be obtained from road/street that access is being gained.

**ROAD WIDTH, SUBDIVISION:** The shortest distance between lines of lots delineating the road right-of-way.

**ROTOR DIAMETER:** The diameter of the circle described by the moving rotor blades.



**SALVAGE YARD:** Land or buildings where waste, recycled materials, 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. When a site exceeds the allowable amount of inoperable vehicles set forth in Chapter 9 the site shall be considered a salvage yard.

**SCENIC BYWAY:** Areas specifically designated as Scenic Byways by the State Scenic Byway Commission which comprises members of MN/DOT, DNR, Office of Tourism and the Minnesota Historical Society.

**SCHOOL:** A public or private educational facility in which a program of educational instruction is provided to children in any grade or grades from kindergarten through the twelfth (12) grade.

**SEDIMENT CONTROL:** Methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SELECTIVE CUTTING:** Uneven-age management, the periodic removing of mature and/or high risk trees more or less uniformly across a forested area not to exceed stocking guidelines to improve or regenerate the stand.

**SELF-SERVICE STORAGE FACILITY/MINI-WAREHOUSE:** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

**SENSITIVE LAND:** Land area that may include bodies of waters, sites of biodiversity, bluffs, or geological sensitive areas.

**SEPTAGE (SSTS):** Solids and liquids removed from an SSTS and includes 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.

**SETBACK:** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road center line, highway, property line, well, feedlot or other facility.

**SEWAGE:** Waste produced by toilets, bathing, laundry, or culinary operations, or the floor drains associated with these sources. Household cleaners in sewage are restricted to amounts normally used for domestic purposes.

**SHORE IMPACT ZONE:** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.

**SHORELAND:** Land located within the following distances from public waters:

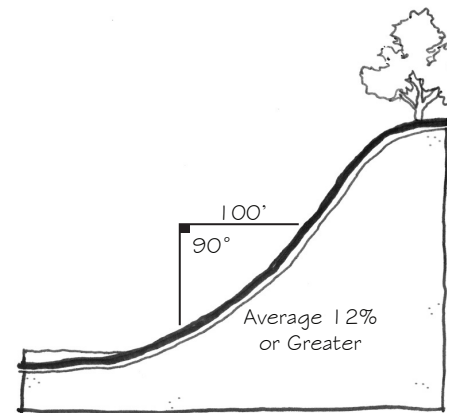


Figure 4.28 Steep Slope diagram

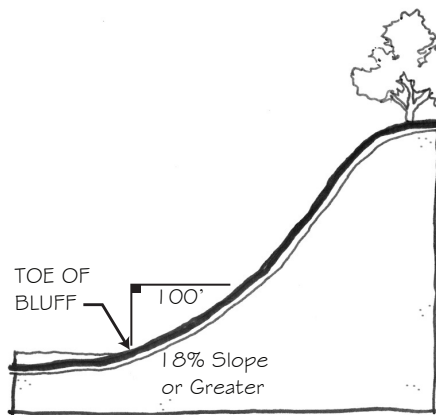


Figure 4.29 Toe of Bluff diagram

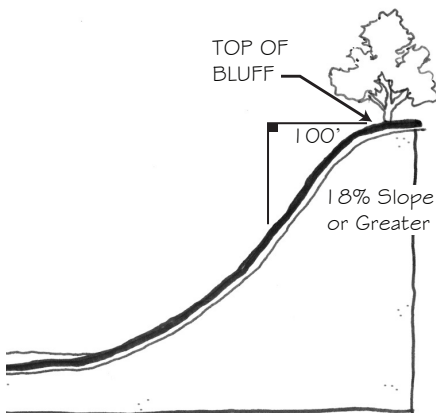


Figure 4.30 Top of Bluff diagram

- a. One thousand (1,000) feet from the ordinary high water mark of a lake, pond or flow; and
- b. Three hundred (300) feet from a river or stream, or the landward extent of a floodplain 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.

**SHORELAND SETBACK:** The minimum horizontal distance between a structure and the ordinary high water mark.

**SIDE YARD SETBACK:** The minimum horizontal distance between a structure and side property lot line. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

**SIGNIFICANT HISTORIC SITE:** Any Archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites. 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 Historic Society.

**SINKHOLE:** A surface depression caused by a collapse of soil or overlying formation above fractured or cavernous bedrock.

Sinkholes shall be considered "active":

- a. When there is an open hole at the ground surface; or
- b. If there is not an open hole at the ground surface, but the surface depression that exist is known to have been caused by collapse of soil and where surface water rapidly infiltrates in the depressed area.

**SITE:** The areas on which an activity is going to take place.

**SOIL SURVEY:** A soil map or inventory of the soils of an area and a report of text describing the kinds of soils shown on the map and summarizing what is known about these soils including their classification and capabilities.

**SOLAR ACCESS SPACE:** That airspace above all lots within the district necessary to prevent any improvement, vegetation or tree located on said lots from casting a shadow upon any solar device located within said zone greater than the shadow cast by a hypothetical vertical wall ten (10) feet high located along the property lines of said lots between the hours of 9:30 AM and 3:30 PM, Central Time on December 21, provided, however, this Ordinance shall not apply to any improvement or tree which casts a shadow upon a solar device at the time of the installation of said device or to vegetation existing at the time of installation of said solar device.

**SOLAR COLLECTOR:** A device, or combination of devices, structures or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

**SOLAR ENERGY SYSTEM:** A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used) and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than ninety (90) days in any calendar year beginning with the first calendar year after completion of construction. Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

**SOLAR SKYSPACE:** The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

**SOLAR SKYSPACE EASEMENT:** A right, expressed as an easement, covenant, condition or other property interest in any deed or other instrument executed by or on behalf of any land-owner, which protects the solar skyspace of an actual, proposed or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three (3) dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two (2) methods.

**SOLAR STRUCTURE:** A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

**SOLID WASTE:** Garbage, refuse and other discarded solid materials, except animal waste as used as fertilizer, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities. Solid waste does not include earthen fill, boulders, rock and other materials normally handled in construction operations, solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

**SPECIAL PROTECTION AREA:** Land within three hundred (300) feet of all

- a. Protected waters and protected wetlands as identified on the Department of Natural Resources Protected Waters and Wetlands map for Winona County; and
- b. Intermittent streams and ditches identified on United States Geological Survey quadrangle maps and the Winona County Soil Survey, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.



Figure 4.31 Transmission lines, by Nixdorf (2004)

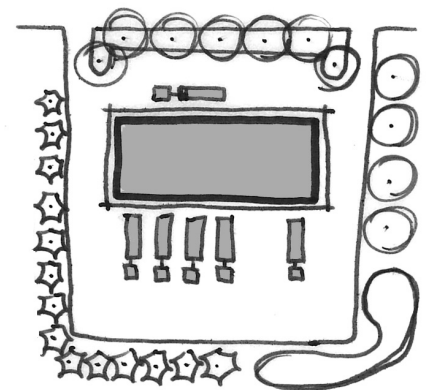


Figure 4.32 Truck terminal with landscape screening

**SPECIAL WATERS:** Special waters are those waters identified in Appendix A of the NPDES Construction Site Permit No: MNR100001 that require additional BMPs. In Winona County, Special Waters are primarily designated trout streams listed in Minn. R. 6264.0050, subp. 4.

**SPECIFIED SEXUAL ACTIVITIES:**

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.

**SPRING:** A place where ground water flows naturally from a rock or the soil onto the land surface or into a body of surface water.

**SSTS:** Subsurface sewage treatment system including an ISTS or MSTs.

**STAFF:** Any employee, consultant, or other individual performing duties on behalf of or request of the Winona County Planning Department.

**STATE:** The State of Minnesota.

**STEEP SLOPE:** Lands 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 these regulations. Steep slopes are lands having slopes of twelve (12) percent or greater, as measured over horizontal distances of at least one hundred (100) feet parallel to the fall line.

**STREET:** (See Road)

**STREET WIDTH:** The width of the right-of-way, measured at right angles to the center line of the street.

**STRUCTURE:** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Chapter 9 of this Ordinance and other similar items.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**SUBDIVIDER:** An individual, individual firm, association, syndicate, copartnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same.

**SUBDIVISION:** A described tract of land which is to be or has been divided into two (2) or more lots for the purpose of immediate or future transfer of ownership for the purpose of sale or of building development, including the resubdivision or replatting of land or lots.

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

**SUBSTANTIAL IMPROVEMENT:** Within any consecutive three hundred and sixty-five (365) day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- b. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

**SUBSTATIONS:** Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) Kv. for interconnection with high voltage transmission lines shall be located outside of the road right of way.

**SURVEY PLOT:** A map and associated legal description, produced by a licensed surveyor, that identifies any new subdivision of land meant for development that is being permitted, as an exception to the minimum lot area outlined in Chapter 10, or by Conditional Use Permit consistent with the criteria stated in chapter 5 Section

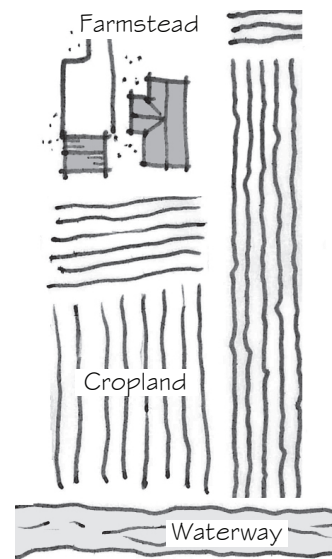


Figure 4.33 Example of waterway adjacent to farmstead

\*4.2 VARIANCE revised by Winona County Board, August 9, 2011



Figure 4.34 Wetland in Minnesota

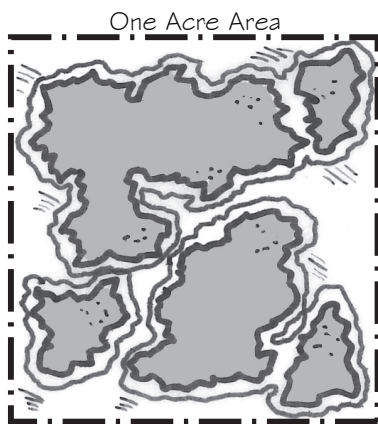


Figure 4.35 Woodland diagram

#5.5.4.1 a survey plot shall be prepared to the standards and include information described in Chapter 6, Section # 6.11.2.

**SWIMMING POOL:** Any basin, chamber or tank constructed of impervious material, located either indoors or outdoors containing an artificial body of water for swimming or recreational bathing. This includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing lockers, showers and toilet rooms.

**TANGENT:** A straight line that is perpendicular to the radius of a curve where a tangent meets a curve.

**TELECOMMUNICATIONS:** Assisted transmission of signals over a distance for the purpose of communication.

**TEMPORARY BUSINESS:** A commercial establishment that involves the exchange of cash, goods, or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, or entertainment in any form in varying quantities directly to a consumer or purchaser for a limited period of time only.

**TIMBER:** Trees that will produce forest products of value whether standing or down, and including logs, posts, poles, bolts, pulpwood, cordwood, lumber and decorative material.

**TIMBER HARVESTING, COMMERCIAL:** The gathering of timber on private lands for the purpose of realizing a profit.

**TOE OF THE BLUFF:** The point on a bluff where there is a clearly identifiable break in the slope from a gentler slope below. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lowest point of a one hundred (100) foot segment with an average slope exceeding eighteen (18) percent.

**TOP OF THE BLUFF:** The point on a bluff where there is a clearly identifiable break in the slope from a steeper slope below. If no break in the slope is apparent, the top of the bluff shall be determined to be the higher point of a one hundred (100) foot segment with an average slope exceeding eighteen (18) percent.

**TOTAL CONFINEMENT:** Livestock contained in the feedlot building at all times.

**TOTAL HEIGHT (WECS):** The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

**TOWER:** Any outdoor structure designed and constructed to support one (1) or more transmitting or receiving devices for telephone, radio or any similar wireless communication facilities.

**TOWER (WECS):** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

**TOWER HEIGHT (WECS):** The total height of the WECS exclusive of the rotor blades.

**TOXIC AND HAZARDOUS WASTES:** Toxic and hazardous wastes are waste materials including, but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner to conserve the environment and protect the public health and safety.

**TRACT:** Referred to as an area of land.

**TRANSMISSION LINE:** Those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) KV and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

**TRAVEL TRAILER:** A vehicle without motor power used or adaptable for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, which does not meet with 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 its character unless the entire structure is erected in accordance with the approved State of Minnesota Building Code.

**TREATMENT LEVEL (SSTS):** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

- Level A: cBOD5 < 15 mg/L; TSS < 15 mg/L; fecal coliforms < 1,000/100 mL.
- Level B: cBOD5 < 25 mg/L; TSS < 30 mg/L; fecal coliforms < 10,000/100 mL.
- Level C: cBOD5 < 125 mg/L; TSS < 80 mg/L; fecal coliforms N/A.

**TRIBUTARY RIVERS:** These segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

**TRUCKING TERMINAL:** Land and buildings used as a relay station for the transfer of a load from one (1) vehicle to another or one (1) party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

**TYPE I SYSTEM (SSTS):** An ISTS that follows a standard trench, bed, at-grade, mound, or greywater system design in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240.

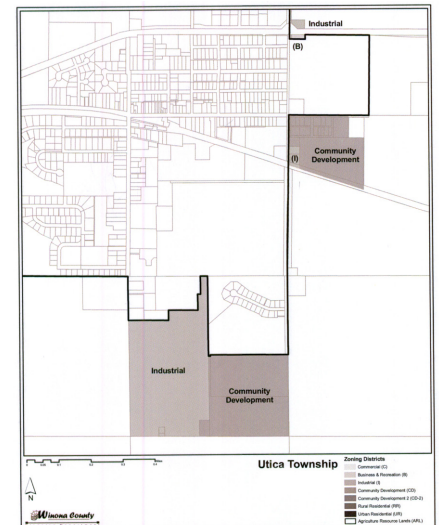


Figure 4.36 Zoning District

**TYPE II SYSTEM (SSTS):** 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 with rapidly permeable soils or lots in floodplains and privies or holding tanks.

**TYPE III SYSTEMS (SSTS):** A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

**TYPE IV SYSTEM (SSTS):** An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

**TYPE V SYSTEM (SSTS):** 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, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

**USE:** The purpose for which land or premises or building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

**USE, NONCONFORMING:** Any legal use of lands, structures or buildings already in existence, before the adoption of this Ordinance or amendments thereto that would not have been allowed to become established under the terms of this Ordinance as now written, if this Ordinance had been in effect prior to the date the use was established.

**USE, PERMITTED:** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**USE, PRINCIPAL:** The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal" use may be either permitted or conditional.

**USE, SEMI PUBLIC:** 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.

**USE, SUBSTANDARD:** Any use existing prior to the adoption of this Ordinance or amendments thereto which is allowed either as a permitted or conditional use but does not meet the minimum lot area, height, yard, width, setbacks or depth standards.

**USE, SURFACE WATER-ORIENTED COMMERCIAL:** 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.

**UTILITIES:** Refers to all utility service providers, whether the same be government owned facilities or furnished by private utility companies.

**VALLEY:** The land between hills or mountains, possibly containing a stream or river.



**VARIANCE:** Any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary practical difficulties.

**VERTICAL CURVE:** The surface curvature on a road or highway center line located between lines of different percentage of grade.

**VETERINARY HOSPITAL OR CLINIC:** A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation, and/or recuperation. It may also include boarding that is incidental to the primary activity, but does not include a kennel.

**WAREHOUSE:** A building used primarily for the storage of goods and materials.

**WATER SUPPLY SYSTEM, COMMUNITY:** A system providing water for human consumption and either containing at least fifteen (15) service connections or living units by year-round residents, or regularly serves at least twenty five (25) year-round residents.

**WATERS OF THE STATE:** All streams, lakes, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portions thereof.

**WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY:** A small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

**WATERWAY:** An earthen construction which is built to carry water off land without losing soil or cutting ditches.

**WECS OPERATOR:** The entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

**WECS OWNER:** The entity or entities with an equity interest in the WECS, including their respective successors and assigns. Owner does not mean:

- a. The landowner from whom the land is leased for locating the WECS; or
- b. Any person holding a security interest in the WECS solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS at the earliest practicable date.

**WETLAND:**

1. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface if the land is covered by shallow water. For purposes of this definition, wetlands must have the following attributes:

- a. Have a predominance of hydric soils;
- b. Be inundated or saturated by surface water or ground water at a frequency inundated sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- c. Under normal circumstances support a prevalence of hydrophytic vegetation.

2. "A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of item 1, surrounded by non wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland."

3. Wetlands does not include public waters wetlands and public waters unless reclassified as wetlands by the commissioner under Minnesota Statutes, section 103G.201.

4. The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to United States Fish and Wildlife Service Circular No. 39 (1971 edition). The local government unit may seek the advice of the technical evaluation panel as to the wetland size and type.

**WIND ENERGY CONVERSION SYSTEM (WECS):** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and metrological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

**WIND TURBINE:** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of air foils or similar devices to capture the wind.

**WINE TASTING FACILITY:** A building, structure, or place (location) that provides a gathering point to taste and compare different wines, produced on site. This would not include catered facilities, banquet halls, dance halls, party venues.

**WINTER FEEDING AREA:** Area or areas where feeding of animals is done during the non-growing season and the area in which the feeding occurs is an area that was pasture or crop during the previous growing season and where the area will be pasture or crop during the following growing season.

**WOODLAND:** A dense collection of trees encompassing at least one (1) acre in area and with a crown cover of fifty (50) percent or greater.

**YARD:** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance.

**YARD, FRONT:** A measurement extending across the front of the lot between the side yard lines and lying between the center line of the road or highway and the nearest line of the building or in the event of a platted lot, measured from the front property line.

**YARD, REAR:** An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and rear line of the lot, for the full width of the lot.

**YARD, SIDE:** An open, unoccupied space on the same lot with a building between the building and the side line of the lot extending from the front lot line to the rear of the back yard.

**YOUTH FACILITY:** A public playground, public swimming pool, library, or licensed day care facility or other similar facilities providing entertainment to youth.

**ZONING DISTRICT:** An area or areas within the limits of the County for which the regulations and requirements governing use are uniform.

**ZONING MAP:** The official Winona County Zoning Map setting forth zoning districts.

### CHAPTER 5: ADMINISTRATION

#### 5.1 Office of Planning Director

The Office of the Planning Director serves under the administrative direction of the County Administrator, and directs and coordinates the activities of the Planning Department. The office term of the Planning Director shall be indefinite and shall terminate at the discretion of the County Administrator.

##### 5.1.1 Powers And Duties of Planning Director

The Planning Director shall have the following powers and duties:

1. Enforce this Ordinance through the proper legal channels.
2. Issue Development Certificates and any other permits as required by the terms of this Ordinance.
3. Conduct inspections of the use of buildings and land to determine compliance with the terms of this Ordinance.
4. Maintain permanent and current records of this Ordinance including but not limited to all permits/certificates, maps, amendments, conditional uses, variances, appeals and application therefor.
5. Receive, publish legal notices about, research and report upon all applications for appeals, variances, conditional uses, amendments and other matters to the designated official bodies.
6. Assist and advise the County Board, Planning Commission and Board of Adjustment upon matters of land use.
7. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.
8. Designate a County Floodplain and Shoreland Manager.
9. Designate a Environmental Review Program Coordinator.
10. Designate a Feedlot Officer.

#### 5.2 Planning Commission

##### 5.2.1 Creation and Membership

1. The Winona County Board of Commissioners hereby establishes the Winona County Planning Commission.
2. The Planning Commission shall consist of nine (9) members. One (1) Planning Commission member shall be a member of the Board of County Commissioners. At least five (5) of the appointed members shall be residents of the portion of the County outside the corporate limits of municipalities excluding the County Board member and his or her appointed alternate. Given the importance of having a Planning Commission with a geographically diverse membership and a solid grounding in agriculture, the Board Chair should strive to accomplish this in appointments to the Planning Commission. Ordinarily the County Board member on the Planning Commission would be one (1) of the County Board members serving a predominately rural/agricultural constituency. No more than one (1) voting member shall be an officer or employee of the

County. No voting member of the Commission shall have received, during the two (2) years prior to appointment, any substantial portion of his or her income from business operations involving the development of land within the County for urban or urban-related purposes.

3. The regular members of the Planning Commission shall be appointed by the County Board Chair after being fully advised by and with input from the Planning Director and the full County Board. The term of office for eight (8) Planning Commission members, who do not sit on the County Board, shall be staggered. Appointments shall be for two (2) year terms. No Planning Commission member shall serve more than three (3) consecutive two (2) year terms. Time served filling the unexpired term of a previous Planning Commission member does not count toward this three (3) consecutive term limit. A Planning Commission member who earlier served three (3) consecutive terms is eligible to serve additional terms on the Planning Commission after at least one (1) year passes between the former appointment and the subsequent appointment. Four (4) of those eight (8) seats (to be designated seats A, B, C and D) shall be up for appointment in odd-numbered years and the other four (4) of those eight (8) seats (to be designated E, F, G and H) shall be up for appointment in even-numbered years. The first time this appointment approach is put into effect (January 2004), seats A, B, C and D shall be appointed to serve one (1) year terms to allow for staggering the terms. Thereafter, all eight seats (A-H) shall serve two (2) year terms. Sitting Planning Commissioners must re-apply for the seat when the seat is up for appointment. All persons interested in serving on the Planning Commission, including sitting Planning Commissioners, must submit an official application form to the County Administrator. The Planning Director will review those applications and make recommendations from among those applicants for the Board's consideration, but all applications, even those not recommended by the Planning Director, shall be forwarded to the full County Board for their review and information. The County Board member who is appointed to serve on the Planning Commission shall serve a one (1) year term. The County Board Chair may also appoint a County Board member to serve as a nonvoting alternate member of the Planning Commission. All appointments to the Planning Commission shall be discussed by the full County Board at a regularly scheduled meeting of the County Board and shall be made part of the permanent minutes of that County Board meeting. These appointments shall be made no later than the last regularly scheduled meeting in January of each year.

### 5.2.2 Organization

1. The Planning Commission shall elect a chairperson, vice-chairperson, and a secretary from among its members. Those

three (3) officers shall serve terms of one (1) year each and shall be elected at the first meeting in each calendar year. Any vacancy created during a term shall be filled by appointment by the County Board, for the remainder of the term. The Planning Director shall serve as recording secretary to the Planning Commission.

2. The Planning Commission shall adopt rules of procedure governing its operations. Those rules of procedure shall be reviewed at the first meeting in each calendar year. They may be amended at that time by majority vote.
3. The members of the Planning Commission, other than members of the Board of County Commissioners, may be compensated for meeting attendance in an amount determined by the Board of County Commissioners. All Planning Commission members, including County Commissioners, may be paid their necessary expenses in attending meetings of the Planning Commission and in the conduct of business of the Planning Commission. Nothing in this subsection shall be construed to prohibit the payment of per diem to County Commissioners pursuant to Minnesota Statutes 375.055, Subdivision 1.

### 5.2.3 Powers and Duties

1. The Planning Commission shall hold public hearings on all applications for conditional use permits, all plans for subdivisions of land, all proposals for comprehensive plans and official controls and all proposals for amendments thereto.
2. The Planning Commission shall perform such other duties as are assigned by the Board of County Commissioners, including but not restricted to the conduct of public hearings.
3. The Planning Commission shall make recommendations to the Winona County Board based on Ordinance requirements.

## 5.3 Board of Adjustment

### 5.3.1 Creation and Membership

1. The Board of Adjustment is hereby established and vested with such authority as is hereinafter provided.
2. The Board of Adjustment shall consist of five (5) members. At least four (4) members must be residents of the portion of the County outside the corporate limits of municipalities. One (1) member of the Board of Adjustment shall also be a member of the Planning Commission. No elected officer of the County nor any employee of the Board of County Commissioners shall serve as a member of the Board of Adjustment.

3. The regular members of the Board of Adjustment shall be appointed by the Board of County Commissioners. The term of office for the persons so appointed shall be staggered. Appointments shall be limited to three (3) two (2) year terms per person and shall expire upon the appointment and acceptance of a new member.
4. Members of the Board of Adjustment shall serve out their appointed terms unless:
  - a. They submit a written resignation to the Board of County Commissioners;
  - b. They are absent from three (3) consecutive meetings of the Board of Adjustment, in which case they shall be automatically removed for nonperformance of duty; or
  - c. They are removed from office by majority vote of the Board of County Commissioners for misconduct in office.
5. Any vacancy created during a term shall be filled by appointment by the County Board, for the remainder of the term. The Planning Director shall serve as recording secretary to the Board of Adjustment.

#### 5.3.2 Organization

1. The Board of Adjustment shall elect a chairperson and a vice-chairperson from among its members. They shall serve terms of one (1) year each and shall be elected at the first meeting in each calendar year. Any vacancy created during a term shall be filled by special election for the remainder of the term. The Planning Director shall serve as secretary to the Board of Adjustment.
2. The Board of Adjustment shall adopt rules of procedure governing its operations. Those rules of procedure shall be reviewed at the first meeting in each calendar year and readopted. They may be amended at that time by majority vote.
3. The meetings of the Board of Adjustment shall be held at the call of the chairperson and such other times as the Board of Adjustment in its rules of procedures may specify.
4. Members of the Board of Adjustment may be paid compensation for meeting attendance in an amount determined by the Board of County Commissioners and may be paid their necessary expenses in attending meetings of the Board of Adjustment and in the conduct of the business of the Board of Adjustment.

#### 5.3.3 Functions and Authority of the Board of Adjustment

1. The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by The Planning Department charged with enforcing any ordinance adopted pursuant to the provision of State Statute 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. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. In exercising its powers under this Subdivision, the Board of Adjustment shall take into consideration the Townships recommendation when the Board of Adjustment's decision directly affects land within the Township.
2. Should an applicant appeal a decision made by the Planning Department, the appeal will first be reviewed by the County Administrator before being presented to the Board of Adjustment.
3. The Board of Adjustment shall have the authority to grant variances to the vehicular access requirements of the Floodplain Ordinance.

### 5.4 Amendments to the Comprehensive Plan and Official Controls

#### 5.4.1 Criteria for Granting Amendments

1. The County may adopt amendments to the official controls in relation to both land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the County as reflected in the Comprehensive Plan or changes in County conditions.

#### 5.4.2 Required Information and Exhibits

1. Application to change wording of official controls.
  - a. The names and addresses of the petitioner or petitioners, and their signature to the petition.
  - b. Stated reason for requested change.
  - c. Statement of conditions warranting change in zoning district or uses, to insure compatibility with the County Comprehensive Plan.
  - d. Text or portion of the existing official control to be amended.
  - e. Proposed amended text and statements outlining any other effects that the amendment may have on other areas of the Ordinance or other official controls.
  - f. Additional information as may be requested by the Planning Commission.
2. Application to change district boundaries or land use.
  - a. The names and addresses of the petitioner or petitioners, and their signatures to the petition.



- b. A legal description of the area proposed to be rezoned or amended.
- c. The present district classification of the area and the proposed district classifications.
- d. Proposed use of the land (a statement of the type, extent, area, etc.) and location of buildings.
- e. Statement of conditions warranting change in zoning district or uses, to insure compatibility with the Comprehensive Plan.
- f. Map, plot plan or survey drawing of property to be rezoned or amended showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties.
- g. Any other information and material requested by the Planning Director or Planning Commission. Such information may include topography, geographical and geological features, existing and proposed utilities, traffic flow patterns, soils analysis, soil percolation tests, water table, floodplain, proposed development plan and other relevant materials.

5.4.3 Procedure

1. An amendment to the official controls may be initiated by the County Board, the Planning Commission or by application by the owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Board until it has received the Planning Commission recommendations. Application shall be submitted to the Planning Director.
2. Written notice of public hearings on the proposed amendment to the wording of an official control shall be sent to the governing bodies of all towns and municipalities located within the County and shall be published in the official newspaper of the County at least ten (10) days prior to the hearing. Written notice of public hearings on proposed changes of zoning district boundaries shall be published at least ten (10) days prior to the hearing in the official newspaper of the County and sent at least ten (10) days prior to the hearing to the following:
  - a. Affected board of town supervisors;
  - b. Municipal councils of any municipality within two (2) miles of the affected property;
  - c. In unincorporated areas, property owners of record within one-half (1/2) mile of the property in question;
  - d. In incorporated areas, property owners of record within five hundred (500) feet of the property in question.
3. The Planning Commission may require a review of the proposed amendment, when appropriate, by the Winona County Soil and Water Conservation District, County Attorney, County Engineer, Environmental Services Director or any relevant reviewer.

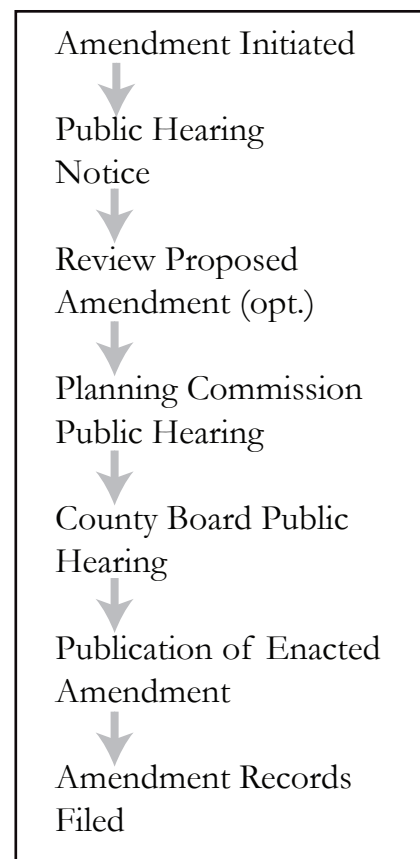


Figure 5.1 Procedure for Amending the Comprehensive Plan and Official Controls

4. A public hearing on the application for amendments shall be held by the Planning Commission within sixty (60) days after the request for the amendment has been received. The Planning Commission shall make its report to the County Board at their public hearing recommending approval, disapproval or modified approval of the proposed amendment.
5. The County Board shall hold a public hearing on all amendments. Every ordinance shall be enacted by a majority vote of all the members of the County Board. Public hearing notice shall be as stated in Section 5.4.3 (2).
6. Every amendment enacted by the Board of County Commissioners shall be published once as part of the proceedings of the meeting at which it was enacted. Publication shall be in the official newspaper of the County. An amendment shall be published in its entirety, or as specified in Minnesota Statute 375.51, Subdivision 3.
7. Proof of publication shall be attached to and filed with the amendment in the Office of the County Auditor. The amendment shall be recorded in an ordinance book in the Office of the County Auditor within twenty (20) days after its publication. The amendment shall be suitably entitled as specified in Minnesota Statutes 375.51, Subdivision 1.
8. Upon the adoption of an amendment, including any maps or charts supplemented to or as part thereof, the County Auditor shall file a certified copy thereof with the County Recorder for record.
9. In the event a zoning district amendment is denied by the Board of County Commissioners, no request on the same property will be considered for rezoning for at least one (1) year.

### 5.5 Conditional Use Permits

In granting a Conditional Use Permit, the Winona County Board shall consider the advice and recommendation of the Planning Department and the Planning Commission and the effect of the land use proposal upon the health, safety, and general welfare of occupants of surrounding lands. To ensure that the spirit of the Winona County Zoning Ordinance is observed and substantial justice done, the County Board shall not grant a Conditional Use unless the petitioner(s) demonstrate the request satisfies the following criteria.

#### 5.5.1 Planning Commission Authority to Place Conditions on a Conditional Use Permit Recommendation

The Planning Commission when considering a Conditional Use Permit request or the alteration of an existing Conditional Use may recommend to the County Board the imposition of additional conditions when the Planning Commission considers it necessary to protect the best interest of the surrounding area, or the County as a whole. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimension.

2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number or required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property
8. Designing sites for open space.
9. Establishing a time period for the Conditional Use.

#### 5.5.2 Existing Conditional Use Permit Amendments

Any change involving structural alterations, enlargement, intensification of a use, or similar change not specifically permitted by the issued Conditional Use Permit shall require an amended permit obtained as if applying for a new Conditional Use Permit. The Planning Director shall maintain a record of all Conditional Use Permits issued including information on the use, location and conditions imposed by the County Board and the time limits, review dates, and such other information as may be appropriate.

#### 5.5.3 Required Information and Exhibits

1. Completed application, including the names and addresses of the petitioner or petitioners and their signature to the petition and a statement of the requested conditional use.
2. A legal description of the property for which the conditional use is requested.
3. A statement of reasons warranting the intended use in the zoning district to insure compatibility of the proposed use with the County Comprehensive Plan.
4. A site plan of the property. The site plan shall include, as pertinent but not limited to, the following information: the location of proposed structures, existing structures, geological features, floodplains, architectural plans, traffic generation, signs, drainage, water table, flood proofing, landscaping plans, lighting arrangements, placement of solid waste, hours of operation, utilities, topography, vegetation, soils information, adjacent land use, roads, property lines, waterways, sewage treatment areas, water supply systems, parking, road access, filling, dredging, grading, channel improvement, storage of materials, water supply, sanitary facilities, specifications for building construction and materials.

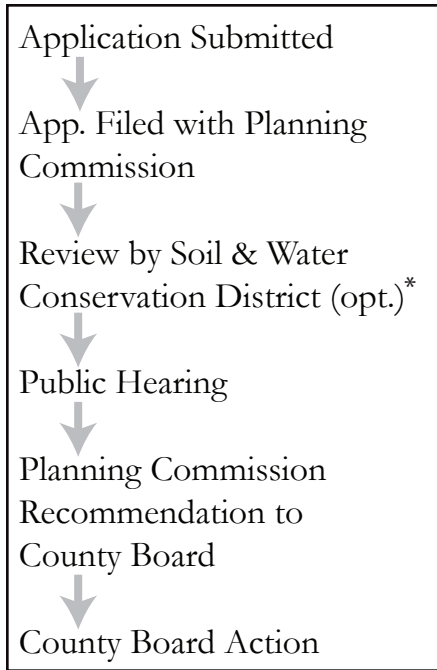


Figure 5.2 Procedure for Granting Conditional Use Permits

\*Or any other Entity

5. The petitioner must submit to the Planning Department a Township Acknowledgment Form. The petitioner is responsible to contact the Town Board where the subject property lies to seek a place on their agenda as a means to advise the Town Board of the proposal. After considering the proposal, the Town Board will record any concerns, observations, and/or recommendation on the Township Acknowledgment Form for the Planning Commission to consider during their review of the request.
6. A non-binding recommendation from the Township in which the proposal is to be located.
7. Any other relevant information and material requested by the Planning Director or the Planning Commission.

### 5.5.4 Procedure

1. The person applying for a Conditional Use Permit shall fill out and submit to the Planning Director a Conditional Use Permit application.
2. The Planning Director shall file the application with the Planning Commission for review.
3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing. In unincorporated areas of the County, property owners of record within one quarter (1/4) mile of the affected property or the ten (10) properties nearest to the affected property, whichever is the greatest number of property owners, shall be notified in writing of the public hearing on the request for a conditional use permit. In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question shall be notified in writing of the public hearing on the request for a Conditional Use Permit. 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.
4. The Planning Commission may require a review of the Conditional Use Permit, when appropriate, by the Winona County Soil and Water Conservation District to determine the adequacy of the soils in the area for the proposed Conditional Use.
5. The Planning Commission shall make a recommendation to the County Board along with its report of findings within thirty (30) days after holding the public hearing. Such recommendation may include any conditions for the issuance of the permit.

6. The County Board shall take action on the conditional use permit application within fourteen (14) days following receipt of the findings and recommendation by the Planning Commission. The person making application for a Conditional Use Permit shall be notified in writing of the County Board’s action and the reason for approval or denial. If it grants the Conditional Use Permit, the County Board may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
7. Upon the recommendation of the Planning Commission, the County Board of Commissioners shall arrive at a decision on a Conditional Use Permit in accordance with Minnesota Statute Section 15.99 also known as the “Sixty (60)-day law”.
8. An amended Conditional Use Permit application shall be administered in a manner similar to that required for a new Conditional Use Permit. Amended Conditional Use Permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
9. Floodplain District petitions:
  - a. Upon filing with the Planning Department an application for a Conditional Use Permit, the Planning Department shall submit by mail to the Minnesota Department of Natural Resources Area Hydrologist, acting for the Commissioner of Natural Resources, a copy of the application for proposed Conditional Use sufficiently in advance so that the Minnesota Department of Natural Resources will receive at least ten (10) days notice of the hearing.
  - b. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Minnesota Department of Natural Resources Area Hydrologist, acting for the Commissioner of Natural Resources within ten (10) days of such action.

5.5.4.1 Criteria to Grant a Conditional Use Permit for a Request that is not a Livestock Feedlot or a Dwelling on Less than Required Acreage in the A/RC District

The Planning Commission before making a recommendation to the County Board regarding a Conditional Use request, shall ensure the request fulfils all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence to the following findings:

1. The use will not create an excessive burden on existing parks, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent land so that existing properties will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

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

Statement regarding adjacent properties and land use effects

4. The use is reasonably related to the overall needs of the County and to the existing land use.
5. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is in conformance with the Comprehensive Plan of the County.
7. The use will not cause traffic hazard or congestion.

#### 5.5.4.2 Criteria to Increase Residential Densities in the Agricultural / Resource Conservation (A/RC) District

The Planning Commission before making a recommendation to the County Board regarding a Conditional Use request to increase residential densities in the A/RC District, shall ensure the request fulfills all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence to the following standards:

1. Will not create an excessive burden on existing parks, drainage structures, emergency services, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.
2. Will not change the essential character of the area, and through its design, construction, operation, and maintenance is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
3. The proposed lot takes advantage of its proximity to other non-farm residences, the configuration of the original tract, or the location of waterways and other natural features to use the site for residential purposes instead of agricultural uses.
4. The proposed lot consists of Class IV through Class VIII soils as identified in the Soil Survey of Winona County as a means to prevent the disturbance to prime soils. An applicant may also develop a site if the proposed lot consists of forty (40) percent or less of Class I through Class III soils.
5. The proposed residence shall not adversely affect environmentally sensitive areas or result in the disruption of wetlands, or other environmental features.
6. The evidence reveals the proposed lot has existed as a non-tillable area for at least ten (10) years.
7. The residence would not substantially restrict the expansion of adjacent agricultural activities.
8. County and Township roads and/or highways adequately serve the proposed residence, and the residence will not place demands on public services and facilities in excess of current capacity unless planned improvements will occur.
9. The proposed density is determined to be acceptable as a long-range land use for the County as evaluated against the land use policies of the Winona County Comprehensive Plan as depicted

on the Final Composite Map (Figure #49) in the Winona County Comprehensive Plan.

10. The request is either consistent with the existing residential development pattern of the area as characterized by the presence of similarly sized residential lots within one thousand (1,000) feet of the proposed lot boundary, or located within a quarter (0.25) mile of an unincorporated community and/or within a half (0.5) mile from any corporation limits.

#### 5.5.4.3 Criteria for Feedlot Conditional Use Permit

The Planning Commission before making a recommendation to the County Board regarding a Conditional Use request to expand a livestock feedlot, shall ensure the request fulfills any specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence showing that the proposed Conditional Use at the proposed location:

1. Will not create an excessive burden on existing parks, drainage structures, emergency services, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.
2. Will not change the essential character of the area, and through its design, construction, operation, and maintenance is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
3. Applies innovative technology and/or distinctive management processes to reduce odor from the facility and/or manure storage systems as a means to mitigate adverse effects on adjacent residential properties; or promotes the planting of trees and shrubs of adequate size to reduce wind movement of odors away from buildings, and/or manure storage systems.
4. Will avoid exposing adjacent properties and natural features from significant adverse impacts from noise, fumes, odors, glare, and surface and groundwater contamination, and the site is absolved of any past and current violations relating to confined feeding operations.
5. Complies with the Winona County Zoning Ordinance, specifically the standards regulating livestock feedlots described in Chapter 8, and conforms with the purposes of the underlying Zoning District.
6. Will be harmonious and in accordance with the goals and policies of the Comprehensive Plan.
7. Will have vehicular access to the site designed as not to create a traffic hazard or congestion.
8. The Planning Commission when considering a Conditional Use Permit for a livestock feedlot must verify with the County Feedlot Officer that the petitioner(s) has submitted a Manure Management Plan adhering to the requirements listed in Chapter 8 of the Winona County Zoning Ordinance. The petitioner(s) must also fully acknowledge the responsibility to collect, store, and dispose

of liquid and solid manure according to recognized practices of accepted agricultural management.

#### 5.5.4.4 Criteria for the Issuance of a Conditional Use Permit in the Floodplain District

The Planning Commission before making a recommendation to the County Board regarding a Conditional Use request in the Floodplain District as described by the Natural Features Overlay District, shall ensure the request fulfils all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence that the use adequately addresses the following issues/concerns:

1. Will not create an excessive burden on existing parks, drainage structures, emergency services, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.
2. Will not change the essential character of the area, and through its design, construction, operation, and maintenance is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
3. The danger to life and property due to increased flood heights or velocities caused by encroachments.
4. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
5. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
6. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
7. The importance of the services provided by the proposed facility to the community.
8. The requirements of the facility for a waterfront location.
9. The availability of alternative locations not subject to flooding for the proposed use.
10. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
11. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for the area.
12. The safety of access to the property in times of flood for ordinary and emergency vehicles.
13. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
14. Such other factors which are relevant to the purposes of this Ordinance.
15. The County Board in granting a Conditional Use Permit in the Floodplain, shall prescribe appropriate safeguards and stipulations to fulfill the purpose of the Natural Features Overlay District. Such stipulations may include, but are not limited to, the following:



- a. Modification of waste treatment and water supply facilities.
- b. Limitations on period of use, occupancy, and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- e. Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5.5.4.5 Criteria for the Issuance of a Conditional Use Permit in the Shoreland District

The Planning Commission before making a recommendation to the County Board regarding a Conditional Use request in the Shoreland District as described by the Natural Features Overlay District, shall ensure the request fulfils all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence that the use adequately addresses the following evaluation criteria and conditions:

- 1. Will not create an excessive burden on existing parks, drainage structures, emergency services, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.
- 2. Will not change the essential character of the area, and through its design, construction, operation, and maintenance is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- 3. A thorough evaluation of the water body 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 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.
- 4. The Planning Commission, 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;

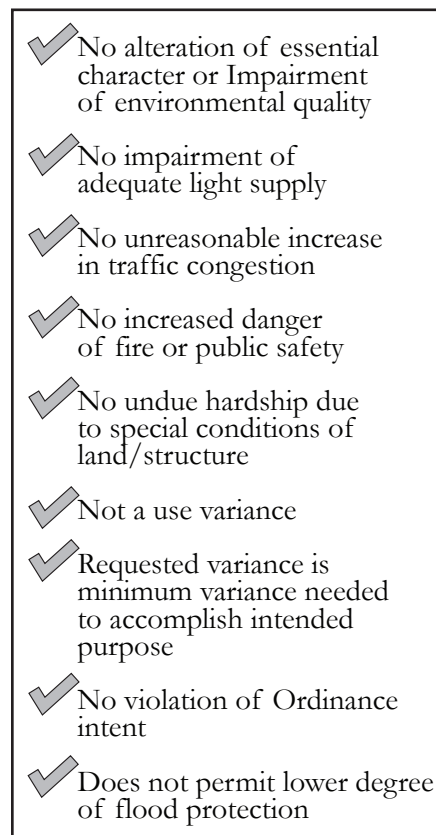


Figure 5.3 Variance Standards

\*5.5.4.6 revised by Winona County Board, June 28, 2011

- b. Limitations 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.

### 5.5.4.6 Criteria for the Issuance of a Conditional Use Permit for WECS Larger than 100kW.

The Planning Commission, before making a recommendation to the County Board regarding a Conditional Use request for a WECS larger than 100kW shall ensure the request fulfills all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence that the use adequately addresses the issues/concerns:

1. The parcel under consideration for the installation of a WECS demonstrates the capacity to safely accommodate the proposed WECS by not posing a risk to adjacent residential uses, public infrastructure, and/or thoroughfares.
2. The proposed WECS will not have adverse effects of stray voltage, or interfere with cellular, radio, or television signals.
3. The evaluation of the potential fall zone based on Table 12.4 (pg 242) to determine the absence of obvious conflict points.
4. Consideration shall be given in that the proposed location shall not create undue burden onto neighboring properties and structures in which the WECS could create a moving shadow created by the sun shining on rotating turbine blades.
5. For all WECS, the manufacture's engineer or another qualified engineer shall certify that the overall design of the apparatus and its installation is within accepted professional standards.
6. The proposed WECS shall consider visual impacts.

## 5.6 Variances

### 5.6.1 Purpose

The purpose of this section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of physical circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

### 5.6.2 General Provisions and Standards for Evaluating a Variance

1. The Winona County Board of Adjustment shall not grant a variance from the regulations of this Ordinance unless it shall make findings of fact based upon the evidence presented and on the following standards, as required by Minnesota State Statute 394.27 Subd.7.
  1. The variance request is in harmony with the intent and purpose of the ordinance.

### Appeal to District Court

All decisions by the Board of Adjustment or the Variance Hearing Officer, in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the district court in the county in which the land is located on questions of law and fact.

Any party that would like to submit an appeal to the decision just rendered at a public hearing must do so to the District Court. The Planning Department is not responsible for filing the appeal.

Figure 5.4 Appeal to District Court

\*5.6 revised by Winona County Board, August 9, 2011

2. The variance request is consistent with the comprehensive plan.
  3. The applicant has established that there are practical difficulties in complying with the official control and propose to use the property in a reasonable manner.
  4. The variance request is due to special conditions or circumstances unique to the property not created by owners of the property since enactment of this Ordinance.
  5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.
  6. Economic considerations alone do not constitute practical difficulties.
  7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum variance which would alleviate the practical difficulty.
  8. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.
2. When deciding on a petition regarding the Floodplain District the Board of Adjustment must also satisfy the following additional criteria of the Federal Emergency Management Agency:
1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  2. Variances shall only be issued by Winona County upon:
    1. A showing of good and sufficient cause, and
    2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    3. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  3. Variances shall only be issued upon a determination that the variance is the minimum

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

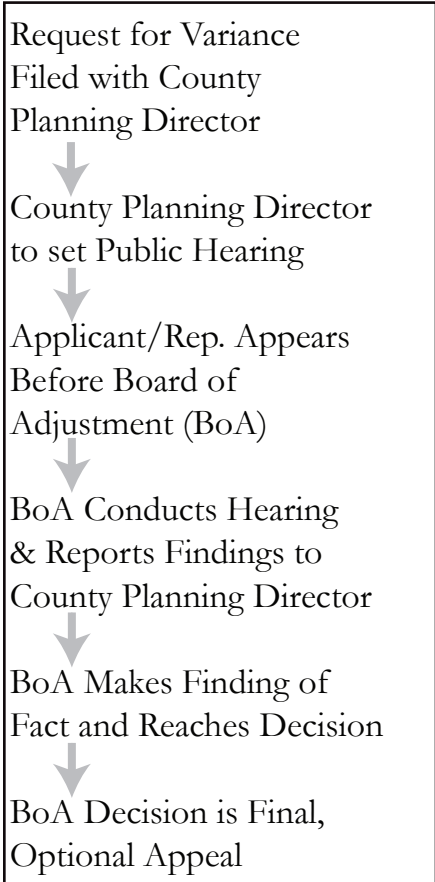


Figure 5.5 Variance Process

necessary, considering the flood hazard, to afford relief.

3. Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.
4. Should the Board of Adjustments find that the conditions outlined heretofore apply to the proposed lot or parcel, the County may grant a variance from the strict application of this Ordinance so as to relieve such difficulties or hardships to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Ordinance.
5. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls.
6. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
7. The Board of Adjustment shall arrive at a decision on such appeal or variance in accordance with Minnesota Statute Section 15.99 also known as the "Sixty (60)-day law." It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions.

### 5.6.3 Procedure

- a. Processing:
  - I. Request for variances, as provided within this Ordinance, shall be filed on forms provided by the Planning Department. The application shall be accompanied by detailed written and graphic materials necessary for the explanation and response to the standards described in Section 5.6.2 when evaluating the variance request. The request shall be considered as being officially submitted when all the information requirements are complied with.
  - II. Upon receipt of said application, the Planning Director shall set a public hearing following proper hearing notification.
  - III. The Planning Director shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Board of Adjustment.

- IV. The Board of Adjustment and Planning Director shall have the authority to request additional information from the petitioner concerning operational factors or to retain expert testimony with the consent and at the expense of the petitioner. Failure of any applicant to supply all necessary supportive information may be grounds for denial of the request.
- V. The petitioner or a representative of the petitioner shall appear before the Board of Adjustment to answer questions concerning the proposed variance.
- VI. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- VII. The Board of Adjustment shall conduct the hearing, and report its findings and recommendations to the Planning Director.
- VIII. The Board of Adjustment shall make a decision and findings of fact regarding the variance request. The Board of Adjustment shall reach a decision consistent with the time table set forth in Minnesota Statutes 15.99 (60 Day Rule).
- IX. All decisions by the Board of Adjustment involving a petition shall be final except that the aggrieved person or persons shall have the right to appeal within thirty (30) days of the Board of Adjustment decision.
- X. Floodplain District petitions:
  - i. The Planning Department must forward a copy of the decision and findings of the request by mail to the Minnesota Department of Natural Resources Area Hydrologist, acting for the Commissioner of Natural Resources, within ten (10) days of the public hearing.
  - ii. The Planning Department must submit by mail to the Minnesota Department of Natural Resources Area Hydrologist, acting for the Commissioner of Natural Resources, a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing , in regards to floodplain district petitions.
  - iii. The Planning Director shall notify the applicant of a variance petition 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 one hundred (100) year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

community 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.

### 5.6.4 Lapse of Variance

If within one (1) year after granting a variance the use as allowed by the variance shall not have been initiated or utilized, then such a variance shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been reviewed and approved by the Board of Adjustment. An approved extension by the Board of Adjustment shall be no more than one (1) year in length after the extension request date.

## 5.7 Reimbursement of Additional Professional Costs

Should the Planning Director determine it is necessary or desirable for Winona County to obtain professional services for the review of petitions submitted for consideration by the Board of Adjustment, Planning Commission, or the County Board, the Planning Director at the time of petition submission or during the subsequent review of the petition establishes it is necessary to obtain professional services, the petitioner(s) shall be required to deposit a sum equal to the following Initial Escrow Formula with the County as an initial deposit to be credited against the fees and costs incurred for the acquisition of professional services.

### 5.7.1 Initial Escrow Formula

1. For a site not exceeding five (5) acres, the sum of \$1,500.
2. For a site exceeding five (5) acres, the sum of \$1,500 plus \$250 for each acre or part thereof in excess of five (5) acres.
3. An applicant may submit an appeal to the County Administrator seeking a waiver to the establishment of the Initial Escrow Formula.
4. Winona County will refund any remaining balance of funds deposited pursuant to this agreement at the completion of the project.

### 5.7.2 Lack of Reimbursement

Upon the failure of the petitioner(s) to reimburse Winona County in accordance with this agreement, no further action shall be undertaken on any request by the Planning Department or the County Board, or by any other official or quasi-official individual or body there under, including the conduct of any hearings or deliberations, the granting of any relief or approvals, and the execution or recording of any documents, until all such outstanding fees are paid in full and/or the restoration of the initial escrow amount. Furthermore, Winona County

may deny any Permit/Certificate if the petitioner(s) fails to pay such amounts in full. Upon any failure to reimburse Winona County in accordance with this Section, the County may in its discretion, apply any or all of the initial deposit to the outstanding balance due and/or elect to place a lien against any real property associated with the request.

## 5.8 Inspection and Monitoring

1. The County, its agents, employees, and officers may inspect the activity authorized under any administrative or conditional use permit required in this ordinance including initial, periodic and final inspections, to determine compliance with the requirements and conditions of the permit/certificate and the Ordinance.
2. In applying for a permit/certificate, the applicant consents to entry upon the land for inspections and monitoring, or for performing any work necessary to bring the activity into compliance.
3. Any portion of the activity not in compliance shall be brought to the attention of the permittee and promptly corrected by the permittee.

## 5.9 Responsibility Effect

The issuance of a permit/certificate or a certificate of compliance shall not relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit/certificate hereunder serve to impose liability on the County or its officers or employees for injury or damage to persons or property. A permit/certificate issued under this Ordinance shall not relieve the permittee of the responsibility of complying with any other requirements established by law, regulation or ordinance.

## 5.10 Violations, Penalties and Enforcement

### 5.10.1 Violations and Penalties

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

### 5.10.2 General Enforcement

1. This Ordinance shall be administered and enforced by the Planning Director, who is hereby designated the enforcing officer.

2. Cease and Desist/Stop Work orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit/certificate or in violation of a permit/certificate. 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/stop work order lifted.
3. In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations. The County Attorney shall have authority to commence such civil action. The County may recover any and all costs, loss, damage, liability or expense incurred, including reasonable attorneys fees, incurred for enforcement of this Ordinance through a civil action based upon, resulting from, or otherwise arising in connection with any actions, claims or proceedings, brought, or any loss, damage or injury of any type whatsoever sustained, based upon, resulting from, otherwise arising in connection with any actions, claims or proceedings. The corrective action in a civil action in any court of competent jurisdiction or, at the discretion of the Winona County Board of Commissioners, all costs (including legal and attorney's fees) may be certified to the Winona County Auditor/Treasurer; as a Special Assessment against the real property.
4. Any property taxpayer or property taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.
5. It shall be the duty of the appointed agent of Winona County, when called upon by the Board of County Commissioners, to perform such duties as may be necessary to enforce the provisions of this Ordinance.
6. Any person who violated any provision of this Ordinance or any regulation of the County Board hereunder enacted shall be fined not less than \$300 and not more than \$1,000 for each day the violation occurs.
7. Nothing herein contained shall prevent Winona County from taking such other lawful action as is necessary to prevent or remedy any violation occurring in the Floodplain District. Such actions may include but are not limited to:



- a. The Planning Director and Winona County may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits/certificates, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. Winona County must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - b. When an ordinance violation is either discovered by or brought to the attention of the Planning Director, the Planning Director 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, if appropriate to federal or State agencies such as the Minnesota Department of Natural Resources and Federal Emergency Management Agency Regional Office along with, if deemed necessary, the community's plan of action to correct the violation to the degree possible.
8. In accordance with state law, the Department may 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 pumper that is performed in violation of the provisions of this Ordinance.
9. 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 Winona County Board of Commissioners, 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/Treasurer shall extend the cost as assessed and charged on the tax roll against said real property.
10. If the structure and/or use is under construction or development, the Planning Director may order the construction or development immediately halted until a proper permit/certificate or approval is granted by the County. The County shall serve a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:
- a. A statement documenting the findings of fact determined through observations, inspections, or investigations;
  - b. A list of specific violation(s) of this Ordinance;
  - c. Specific requirements for correction or removal of the specified violation(s);
  - d. A mandatory time schedule for correction, removal and compliance with this ordinance; and
  - e. A notification of the After-the-Fact Fee to correct the violation.

11. If the construction or development is already completed, then the Planning Director shall:

- a. Issue an order identifying the corrective action that must be made within a specified time period to bring the use or structure into compliance with the official controls; and
- b. Notify the responsible party to apply for a Development Certificate and After-The-Fact Fee within a specified period of time not to exceed thirty (30) days. If the responsible party does not appropriately respond to the Planning Director 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 Planning Director shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

### 5.10.3 Procedures for Enforcement of Section 9.15 (Soil Erosion and Sediment Control) Complaint.

Winona County Land Occupiers, Township, County, State or Federal Officials may submit a complaint verbal or written against any land occupier alleging that accelerated erosion or sediment damage has occurred or is occurring. The complaint shall include their name, the approximate dates and location of the alleged violation and describe the source, nature and extent of the accelerated erosion or sediment damage alleged to have occurred or which is occurring.

### 5.10.4 Action Initiated by Complaint regarding Soil Erosion and Sediment Control

- a. The Planning Director, upon the receipt of a complaint, shall request the Winona County Soil and Water Conservation District to have an investigation made. A representative of the Soil and Water Conservation District Board, a representative of the Township Board and a representative of the Planning Department shall arrange for a meeting with the land occupier to determine whether an actual violation exists. The complainant will be notified of the time of the investigation and will be given the opportunity to be present when the investigation is conducted.
- b. Within five (5) working days of the completion of the investigation, the Winona County Soil and Water Conservation District will notify the Planning Director whether an actual violation exists. Upon notification by the meeting attendees, the Director shall notify the land occupier by letter within five (5) working days.
- c. Emergency corrective action may be required at any time throughout this process.

- d. If a violation exists, the land occupier will be given thirty (30) days from the date of the letter to develop a suitable plan to correct the violation with the Soil and Water Conservation District Board Representative. The plan shall include the following:
  - I. Specific conservation management and/or structural practices to be implemented to stop the accelerated erosion or sedimentation.
  - II. The date when the practices will be completed.
- e. If the land occupier is unwilling or unable to develop a plan within thirty (30) days, the Soil and Water Conservation District Representative will notify the Planning Director of the situation and request an evaluation of what practices will be required to bring the land into compliance with the Ordinance.
- f. If no suitable plan is submitted within thirty (30) days, the matter shall be turned over to the County Attorney for appropriate action.

### 5.11 Surveys

Any registered land surveyor doing business in Winona County as it relates to surveying is required to file a true and correct copy of said work with the County Recorder's Office and the County Surveyor within thirty (30) days after completion of the survey as required in Winona County Ordinance No. 34. Surveys filed with the Recorder's Office become public records and are available for inspection by citizens of Winona County.

### 5.12 Subdivision of Land

A subdivision of land may occur in any Zoning District provided the proposed subdivision complies with all applicable standards of the Winona County Zoning Ordinance. The intention to subdivide a lot, parcel, or tract of land into three (3) or more lots from the original tract of land described and recorded with the Winona County Recorder as of August 1, 1970 for the purpose of immediate or future transfer of ownership with the intention to obtain Development Certificates, including the re-subdivision, re-platting of lots or parcels, and/or the construction of new roads or the creation of easements intended for dedication as a public thoroughfare requires the submission of a Preliminary Plat Application.

Division of land into lots larger than five (5) acres in area and containing at least three hundred (300) feet of public road frontage and width, which does not involve any new streets or easements of access shall be exempt from the requirements of the Subdivision Regulations pursuant to Chapter 15.

### CHAPTER 6: PERMITS / CERTIFICATES

#### 6.1 Purpose

To promote and protect the public health, safety, and general welfare by ensuring property owners or their authorized agents obtain all applicable permits/certificates and approvals before commencing with property improvements. The issuance of permits/certificates is a regulatory mechanism whereby Winona County can be assured that upon completion, approved development projects will substantially conform to the requirements and standards contained in the Winona County Zoning Ordinance. Explicitly, nothing contained in Chapter 6 shall be deemed to consent to, license, or sanction the use of any property or to locate, construct, or maintain any building, structure, facility, operation, or conduct any activity or occupation without first securing the necessary permits/certificates.

The Planning Department administers the issuance of the following certificates/permits:

1. Advertising Devices
2. Change of Use
3. Commercial Timber Harvesting
4. Development
5. Feedlot
6. Land Disturbance
7. Subsurface Sewage Treatment Systems (SSTS)

The issuance of these various permits/certificates manages the placement of a wide variety of building types and other structures throughout the County as well as preserving farmland, distinctive landscapes, scenic features, mature trees, and historic structures existing on sites proposed for development. In its review of permit/certificate applications, the Planning Department encourages innovative site layouts and coordinated architectural treatment of different building types.

Applicants submitting incorrect information, providing false statements, or omitting project specifics to the extent that the omission may violate other provisions of the County Zoning Ordinance, or jeopardize the safety of adjacent properties, is sufficient basis for the Planning Department to immediately terminate its review. The Planning Department will not issue a permit/certificate for any improvement on a site in violation of any provisions of the Zoning Ordinance except when the improvement activities described in the application request will eliminate the violation.

The remaining portion of Chapter 6 lists the individual requirements for each of the specific permits/certificates. To determine the approval status of a permit/certificate, or to speak to the staff member responsible for its review, an applicant should contact the Planning

Department at 507.457.6335. All permits/certificates are accepted/ issued between the hours of 8AM and 4:30PM Monday through Friday, excluding Holidays that are approved by the County Board.

It is the obligation of the property owner to adhere to the Minnesota State Electrical Code 1315 requirements and to schedule an inspection with a State of Minnesota Electrical Inspector.

## 6.2 Permit / Certificate Requirements

### 6.2.1 Purpose

The purpose of this Section is to establish requirements and procedures for the processing and consideration of activities allowed by administrative permits/certificates requiring the approval of the Planning Department.

### 6.2.2 Criteria for Granting a Permit / Certificate

An administrative permit/certificate may be granted, upon the applicant demonstrating that all applicable performance standards and criteria stated in this Ordinance have been or will be satisfied. The Planning Department shall make the following findings where applicable:

1. The proposed use is not in conflict with the Comprehensive Plan of Winona County.
2. The proposed use is consistent with the purpose of this Ordinance and the purpose of the zoning district in which the applicant intends to locate the proposed use.
3. The proposed use satisfies the performance standards and criteria of this Ordinance.
4. The proposed use has been described in sufficient detail to enable Planning Department review.

### 6.2.3 Procedure

1. Any person or entity undertaking an activity for which a permit/ certificate is required by this Ordinance must first submit to the Planning Department for review the appropriate permit/certificate application along with design data, plans, specifications and other information and exhibits as may be required by this Ordinance.
2. Permit/certificate applications must be submitted on the appropriate forms provided by the Planning Department.
3. Applications shall include the following signatures:
  - a. Signatures of all owners of the subject property; or
  - b. The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale; or
  - c. The signatures of lessee in possession of the property with the written consent of all the owners; or

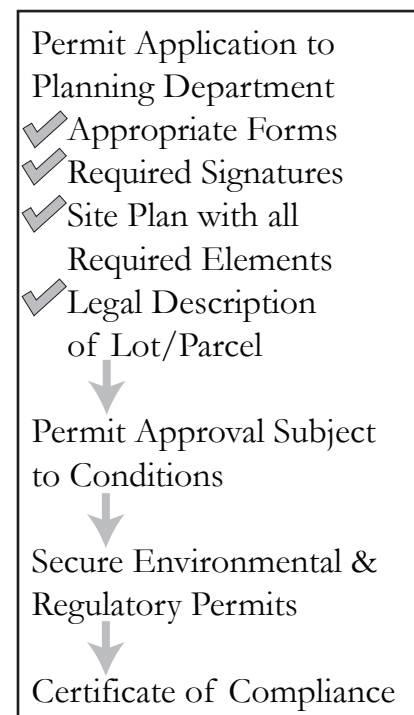


Figure 6.1 Procedure for Granting an Administrative Permit.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

- d. The signatures of the agent of those identified in (a), (b) or (c) when authorized in writing by those with the interests described in (b) or (c), and all the owners of the property; or
  - e. The signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owners; and
  - f. The signature of the applicant and the applicants' address and phone number, if other than the property owner.
4. Each application for a permit/certificate shall be accompanied by a site plan drawn to scale (when required by the Planning Department) upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed. The site plan shall include, as pertinent, but not limited to the following:
- a. Location and configuration of lot or parcel;
  - b. North arrow;
  - c. Roads: Federal, State, County and/or Township, including driveway;
  - d. Lot or parcel with parcel definition identification, dimensions in feet including front, sides and rear and any deflections or angles. For larger lots an additional area map shall be required.
  - e. Location of proposed new structures and improvements and their distance including setback from the center line of all public roads and distance from all property lines;
  - f. Location of all other existing structures or buildings on the parcel lot;
  - g. Location of all proposed and/or existing individual sewage treatment systems and alternate areas for sewage treatment;
  - h. Location of all proposed and/or existing wells and water supplies lines;
  - i. Easements of record;
  - j. Direction of surface run-off;
  - k. \*Elevation and topography at ten (10) feet intervals;
  - l. Location of all waterways, dry runs, streams (by name) and springs;
  - m. Location of vegetation including woodlands;
  - n. Limit of work areas;
  - o. Parking and loading areas;
  - p. Landscaping design plan;
  - q. Locations of all wetlands;
  - r. Location of all karst features such as sinkholes;
  - s. \*Location of other natural features such as natural communities and rare species;
  - t. \*Lighting arrangement (outside); and
  - u. \*Location of solid waste containers.
  - v. Such other information as required by Planning Department.

\* As required by Planning Department

5. Each application for an permit/certificate must be accompanied by the recorded legal description of the lot or parcel of land on which the development or activity is to take place and legal description of any splits.
6. A permit/certificate may be approved subject to conditions to assure compliance with this Ordinance. The conditions may specify responsibility for the construction and future maintenance or removal of structures and document other continuing obligations of the permittee or owner.
7. Prior to any permit/certificate being issued the applicant shall secure all environmental and regulatory permits required by other governmental entities, and provide the Planning Department with copies of such permits and approvals after issuance.
8. A written denial of an permit/certificate shall be issued to the applicant when a determination of noncompliance with applicable standards of this Ordinance is made.

### 6.3 Reimbursement of Permit / Certificate Application Fees

The Planning Director has the authority to determine the amount of a permit/certificate application fee that can be returned if the applicant nulls the project after submitting applications.

Should the applicant find the reimbursement amount unsatisfactory, then applicant may appeal the decision to the Board of Adjustment.

### 6.4 Duration of Permits / Certificates; Extensions

A permit/certificate issued under this Chapter shall be valid for five (5) years from the date of its issuance. The Planning Director may grant an extension of the original permit/certificate for one (1) year if there has not been regulatory changes that affect the permit/certificate or if there is no significant modifications to the original proposal. The duration of Feedlot Permits shall follow Minnesota Rules Chapter 7020 or the Feedlot Permit durations indicated in this Ordinance. The duration of SSTS Permits shall follow standards located in section 13.7.2 (H) of this Ordinance.

### 6.5 Modification and Corrections

The issuance of a permit/certificate based on plans, specifications or other data shall not prevent the Planning Department from requiring the correction of errors in the approved plans. The permittee shall not modify the permitted development or activity without the approval of the Planning Department.

### 6.6 Certificate of Compliance

The permittee shall notify the Planning Department when the permitted development or activity is completed. If the Planning

Department determines that the measures, activity, development, and use has been satisfactorily executed, the Planning Department shall issue a Certificate of Compliance and release any financial guarantee collected. No permitted/certified development, activity or use shall be deemed in compliance until a Certificate of Compliance has been issued by the Planning Department.

### 6.7 Advertising Device Permit

No property owner or their authorized agent may erect an advertising device, except as specified herein, unless the Planning Department issues a permit/certificate for the device.

A permit/certificate shall be required for all advertising devices according to the specific requirements, exceptions and application procedures as set forth in Chapter 9, Performance Standards.

### 6.8 Change of Use Permit

A Change of Use Permit shall be required in the following situations:

1. A change or conversion from one permitted principal use to another, within a zoning district; or
2. A change or conversion of a permitted use to or from an accessory use, within a zoning district; or
3. A change in the property description which results in a dimensional or definitional change of the land, structure or use.

### 6.9 Commercial Timber Harvesting Permits

1. No person shall commercially harvest trees from their property if the harvest is occurring on one (1) or more acres within the Natural Features Overlay Districts or the harvest is occurring within or involves five (5) acres or more of land outside the Natural Features Overlay District's without first securing a Commercial Timber Harvesting Permit from the Planning Department.
2. Approval process and permit conditions:
  - a. The Planning Department or their designee shall verify that the permit application is complete and includes a Timber Harvesting Plan that complies with the performance standards set out in Chapter 9.
  - b. The permittee is responsible for successful completion of the Timber Harvesting Plan and conducting Best Management Practices during the harvesting process. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with approved plans.
  - c. Any proposed modification to approved plans shall be approved by the Planning Department or their designee prior to implementation of said changes.



- d. The permittee shall notify the Planning Department prior to commencement of timber harvesting.
- e. The Winona County Planning Director may submit the application for review to the State Forester, regional and consulting foresters and/or other natural resource specialists.

## 6.10 Conditional Use Permit

A Conditional Use Permit shall be required for uses listed as "Conditional Uses" in Chapter 10 and also shall be required in accordance the Natural Features Overlay requirements located in Chapter 11.

## 6.11 Development Certificate

Hereinafter no person shall erect, alter or move any permanent building or part thereof without first securing a Development Certificate. No site work including rough grading, driveway construction, footing construction or other physical changes to the site shall occur prior to the issuance of the Development Certificate, unless authorized and permitted in writing by the Planning Department.

### 6.11.1 Development Certificate Standards

1. An application for a Development Certificate shall be submitted by the property owner or his/her authorized representative for the following:
  - a. Erecting or building residential, commercial, industrial or agricultural structures or accessory structures;
  - b. Construction of fences in the RR, UR, CD, CD 2, I, and B districts;
  - c. Moving, extending or expanding the exterior dimensions of any existing building or structures; and
  - d. Creation of an additional bedroom.
2. A Development Certificate shall not be required for the following:
  - a. Interior changes/remodeling, exterior maintenance and minor repairs of existing buildings or structures that does not change the exterior dimension;
  - b. Construction of fences in the A/RC district;
  - c. Accessory structures with a material construction value of two thousand (\$2,000) or less as proven through receipt;
  - d. Accessory structures with a footprint of two-hundred (200) square feet or less and a height of ten (10) feet or less.
3. A Development Certificate is valid for five (5) years, unless the Planning Department is notified in writing that an extension for an additional year is requested.

### 6.11.2 Site Plan Requirements

To ensure a proposal to construct a structure, a property owner or their authorized agent must submit for staff review and approval a Site Plan adhering to the following requirements:

Table 6.1 Land Disturbance Permit / CUP	
Earthen Material Amount	Permit Type
More than 10 cu.yd. in Shoreland District (within steep slopes, shore and bluff impact zones)	Land Disturbance Permit
More than 50 cu.yd. in Shoreland District (outside of steep slopes, shore and bluff impact zones)	Land Disturbance Permit
500-999 cu.yd.	Land Disturbance Permit
1000+ cu.yd.	Conditional Use Permit (CUP)
1000+ cu.yd. for geothermal	Land Disturbance Permit

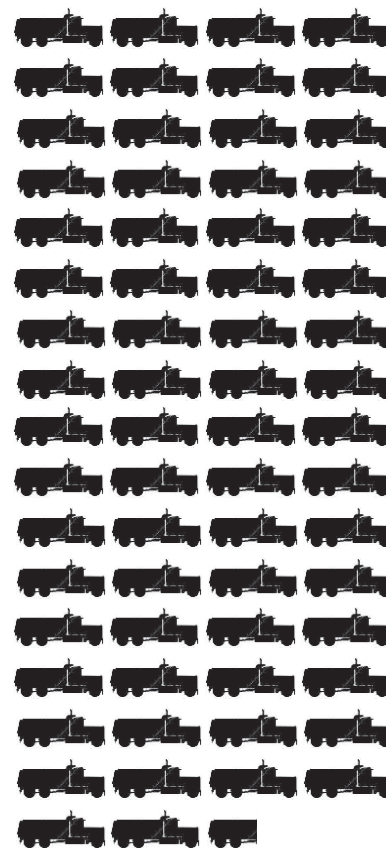
1. The applicant shall prepare and submit to the Winona County Planning Department, a Site Plan of the site accommodating the proposed structure. The scale of the Site Plan shall not be smaller than one inch equals one hundred feet (1" = 100') with the sheet size no smaller than eight and one half inches by eleven inches (8-1/2" by 11").
2. The plan shall be clearly marked as "Site Plan" and shall show the following:
  - a. Title, scale, north arrow and date on each sheet.
  - b. The name and address of the owner and name and address of the surveyor preparing the plot.
  - c. A key map showing the general location of the proposed plot in relation to surrounding roads, natural features, and municipalities.
  - d. The location of property lines, roads, easements, buildings, utilities, water courses, tree masses, natural features and other existing features affecting the plot, including floodplains as defined and approved by the Federal Emergency Management Agency (FEMA).
  - e. Existing zoning of the site and adjoining property.
  - f. The perimeter of the property to be subdivided must be shown with all needed dimensions.
  - g. Any additional existing or proposed lots for existing or proposed driveways, accesses, roads, streets or other rights-of-way, utility locations or drainageways.
  - h. A legal description of the plot.
  - i. The boundary of the area being plotted, shown as a contrasting line style with the length of boundary lines and the location of the property in reference to known section lines.
  - j. The location, width, dimensions, typical cross section and approximate grades of all driveways, access roads, and roads.
  - k. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas distribution lines, electric utilities, telephone lines, wells, television cable lines and other facilities.
  - l. Proposed easements showing locations, widths, purposes and limitations.
  - m. Roads shall not be designated as separate lots. All roads, whether intended to be private or dedicated to the public, shall be part of adjoining lots, with the center line of the road serving as the boundary of lots adjoining opposite sides of the road.
  - n. Any other pertinent information, as determined by the Planning Department.

## 6.12 Feedlot Permit

For Feedlot permit requirements see Section 8.4.2 of this Ordinance.

### 6.13 Land Disturbance Permit

1. Prior to the issuance of a Land Disturbance Permit, all applicants must first provide erosion and sediment control measures. No permit shall be issued until the Planning Department approves an erosion and sediment control plan measure. Erosion and sediment control measures must be designed and maintained to attain the fundamental goal.
2. A Land Disturbance Permit shall be required in the following situations:
  - a. When there is to be one (1) or more acre of land disturbed and/or a NPDES/SDS Stormwater Permit for Construction Activity is required;
  - b. When there is to be movement of earthen material, defined as a land disturbance, in excess of fifty (50) cubic yards in the Shoreland District outside of steep slopes and shore and bluff impacts zones;
  - c. When there is to be movement of earthen materials, defined as a land disturbance, in excess of ten (10) cubic yards in the Shoreland District within shore or bluff impact zones and on steep slopes;
  - d. When there is to be movement of earthen material between five hundred (500) and nine hundred ninety nine (999) cubic yards.
  - e. When there is to be excavation or filling of land that would deprive an adjoining property owner of lateral support.
  - f. When there is to be excavation of earthen material of more than one thousand (1,000) cubic yards, for the installation of a geothermal heat pump system.
  - g. When there is to be excavation of earthen material, for the installation of a geothermal heat pump system located within Shoreland, Floodplain, or on steep slopes as described in Chapter 11.
  - h. A land disturbance permit shall not be required for the following situations:
    - I. For soil conservation and agricultural practices when directly related to and accessory to a farming operations, if permits are required from any other units of government for the use of the altered area, all necessary permits must be obtained prior to the movement of any earthen material;
    - II. When a commercial timber harvesting permit is required;
    - III. For minor land disturbing activities included but not limited to home gardens, landscaping, repairs, and yard maintenance;
    - IV. Land Disturbance and excavations necessary for the construction of structures, sewage treatment systems (installation or repair), and driveways under validly issued




1,000 cu. yd. = 66.6 truck loads  
 = 15 cu. yd.

Figure 6.2 Land disturbance diagram.

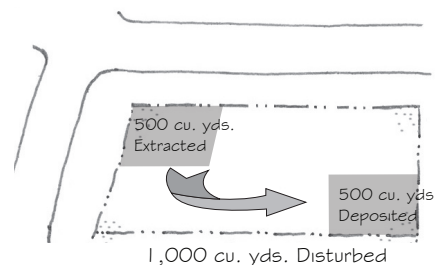


Figure 6.3 Land disturbance diagram.

The cubic yards of material calculated will not include the material excavated for the foundation of residential development.

Figure 6.4 Material Excavation.

permits for these facilities do not require the issuance of a separate Land Disturbance Permit.

- V. Emergency work necessary to preserve life or property due to an imminent public health or safety threat provided that within ten (10) days following the start of the activity, a land disturbance permit is obtained.

### 3. Approval process and permit conditions:

- a. The Planning Department or their designee shall verify that the permit application is complete and includes an Erosion and Sediment Control Plan and a Stormwater Management Plan that complies with the performance standards set out in Section 9.15;
- b. If permanent stormwater management involves directing some or all focused runoff from the site onto another's property, the applicant shall provide documentation of the stormwater easement from the applicable property owner(s);
- c. Sediment control practices on all down gradient perimeters must be established before any up gradient land disturbing activities take place and shall remain in place until final stabilization. The approved Stormwater Management Plan shall be maintained in perpetuity;
- d. Any proposed modification to approved plans, construction schedules or alterations to accepted sequencing of land disturbing activities shall be approved by the Planning Department or their designee prior to implementation of said changes;
- e. The permittee shall notify the Planning Department prior to commencing land disturbing activities when erosion prevention and sediment control practices are to be put in place.

### 4. Financial Securities

- a. Upon approval of the Erosion and Sediment Control Plan and the Stormwater Management Plan, a guarantee in the form of a letter of credit, cash deposit, or performance bond in favor of the County equal to one hundred twenty-five percent (125) of the costs to implement the Erosion and Sediment Control Plan and Stormwater Management Plan may be provided to the Planning Department.
- b. If remedial action is required and not undertaken by the permittee, the County shall use the guarantee to undertake the necessary remedial action. The permittee shall be liable for all costs incurred including staff time and contractor fees in completing the remedial action.
- c. The financial guarantee shall be returned to the permittee after completion and observed success of the erosion prevention and sediment control management measures. The guarantee shall not be held more than one (1) year after the successful completion of the installation.

## 6.14 SubSurface Sewage Treatment (SSTS) Permit

A permit shall be required to install, alter, repair or extend any Sub Surface Sewage Treatment System (SSTS). Specific requirements, exceptions and application procedures are set forth in Chapter 13. Standards for all SSTS systems shall be in conformance with all state requirements, as amended.

### 6.14.1 Operating Permit

An Operating Permit shall be required of all owners of new holding tanks or MSTs or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MST until the Planning Department certifies that the MSTs or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTs, and a valid Operating Permit is issued to the owner.

## CHAPTER 7: ENVIRONMENTAL REVIEW

### 7.1 Purpose

The purpose of this section is to determine whether certain projects have or may have the potential for significant environmental effects and should undergo special procedures of the Minnesota Environmental Review Program.

### 7.2 General Provisions

1. No development project shall be approved prior to review by the Planning Director to determine the necessity for completion of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for EAW and EIS are set forth in the Minnesota Environmental Quality Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statute 116D.04 and 116D.04S and specified in Minnesota Rules Parts 4410.0200 to 4410.7800.
2. Environmental reviews (EAW and EIS) shall be conducted as early as practical in the processing of a development project. Time delays in the normal permit process cause by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements set forth within this Ordinance. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process. No decision on granting a permit or other approval required to commence the project may be issued until the EAW/EIS process is completed.

### 7.3 Environmental Assessment Worksheets (EAW)

1. Purpose: The purpose of an EAW is to rapidly assess, in a worksheet format, whether or not a proposed action has the potential for significant environmental effects.
2. Mandatory EAW: The preparation of an EAW shall be mandatory for those projects that meet or exceed the thresholds contained in the State Environmental Review Program regulations, Minnesota Rules 4410.4300, as may be amended.
3. Discretionary EAW: A discretionary EAW may be required when it is determined that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects. The Planning Director may suggest and/or the Planning Commission may require the preparation of a discretionary EAW if it is determined that a development project may have some significant environmental impact or when there is a perception of such, provided that the project is not specifically exempted by Minnesota Rules 4410.4600, as may be amended.

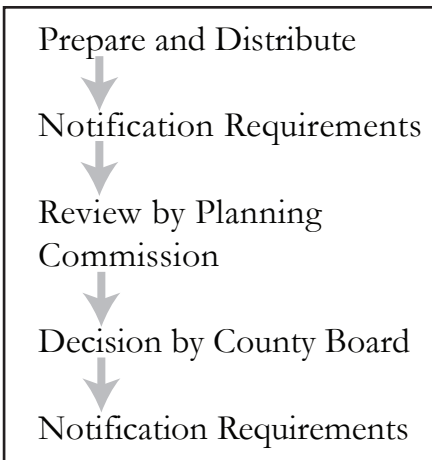


Figure 7.1 Environmental Assessment Worksheet Procedure.

4. Procedures:
  - a. Preparation and Distribution:
    - I. If the Planning Director determines that an EAW shall be prepared, the proposer of the project shall submit an "Application for Environmental Review" along with the EAW prepared in draft form. The applicant shall agree in writing, as a part of the application, to reimburse the County prior to the issuance of any permits for all reasonable costs, including legal and consultants' fees, incurred in preparation and review of the EAW.
    - II. Pursuant to Minnesota Rules 4410.1400, within thirty (30) days of submission of the Application for Environmental Review, the Planning Director shall review the draft EAW for completeness and accuracy, add supplementary material if necessary and approve the EAW for distribution.
    - III. If the EAW is ordered to be prepared pursuant to the petition process of Minnesota Rules 4410.1100, the EAW must be prepared within twenty-five (25) working days of the date of that decision, unless an extension of time is agreed upon by the proposer of the project and the Planning Director.
    - IV. Within five (5) days of approving the EAW for distribution, the Planning Director shall distribute copies of the EAW to the EQB for publication of the notice of availability of the EAW in the EQB Monitor. Copies shall be distributed at the same time to the official EAW distribution list maintained by the EQB staff. Within five (5) days of submission of the EAW to the EQB, the Planning Director shall provide a press release of the County's official newspaper, containing notice of availability of the EAW for public review.
  - b. Neighboring Property Owner Notification:
    - I. Upon completion of the EAW for distribution, the Planning Director shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least one-half (1/2) mile of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning Commission meeting during which the EAW will be considered.
    - II. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Ordinance.

- c. Review by Planning Commission: During the thirty (30) day comment period that follows publication of the notice of availability of the EAW in the EQB Monitor, the Planning Commission shall review the EAW. The Planning Commission shall make recommendations to the County regarding potential environmental impacts that may warrant further investigation before the project is commenced and the need for an EIS on the proposed project.
  - d. Decision by County Board: The County Board shall make its decision on the need for an EIS for the proposed project at its first meeting more than ten (10) days but not more than thirty (30) days after the close of the comment period. The Board shall base its decision on the need for an EIS and the proposed scope of an EIS on the information gathered during the EAW process and on the comments received on the EAW. Pursuant to Minnesota Rules 4410.1700, in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:
    - I. Type, extent and reversibility of environmental effects.
    - II. Cumulative potential effects of related or anticipated future projects.
    - III. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
    - IV. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar projects.
  - e. Within five (5) days of the County's decision on the need for an EIS, notice shall be provided to all persons on the EAW distribution list, to all persons who commented in writing during the thirty (30) days comment period, to the EQB staff for publication of the decision in the EQB Monitor and to any person upon written request.
5. Mitigation Measures: Any measures for mitigating that are considered by the County in making their EIS need decision may be incorporated as conditions for approval of conditional use permits, interim use permits, variances, planned unit development, and/or site plan requests as required by this Ordinance.

### 7.4 Environmental Impact Statements (EIS)

1. Purpose: The purpose of an EIS is to provide information for governmental units, the proposer of the project and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects and to explore methods for reducing adverse environmental effects.



2. Mandatory EIS: An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in Minnesota Rules 4410.4400, as may be amended.
3. Discretionary EIS: An EIS shall be prepared when the County Board determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects, or when the County Board and the proposer of the project agree that an EIS should be prepared.
4. Procedures:
  - a. All projects requiring an EIS must have an EAW on file with the County Board, which will be used to determine the scope of the EIS. All EISs shall be prepared according to the procedures and requirements of the State Environmental Review Program, Rules 4410.2100-4410.3000, as may be amended. The costs of preparation of an EIS shall be assessed to the project proposer in accordance with Minnesota Rules Parts 4410.6000 to 4100.6500, as may be amended.
  - b. Any proposal, project or use on which an EIS is required shall be considered a conditional use as defined in Chapter 4 of this Ordinance and shall comply with the procedure for approval of a conditional use permit. Mitigating measures identified in the EIS shall be incorporated as conditions of issuance of the conditional use permit.

### CHAPTER 8: LIVESTOCK FEEDLOTS

#### 8.1 Statutory Authority

This chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Sections 103B.301-103B.335; Minnesota Statutes, Section 116.07, Subd. 7; and Minnesota Pollution Control Agency Rules, Parts 7020.0100 - 7020.1900; and the County Planning and Zoning enabling legislation in Minnesota Statutes, Chapter 394.

##### 8.1.1 Intent & Purpose

The raising of farm animals and production of other agricultural products is an important part of the history, environment, and economy of Winona County. The counties farmers produce livestock, poultry, dairy products, and other agricultural commodities for consumption in Minnesota, the United States, and foreign countries. The continued health of the agricultural community and the production of these products is essential to the economic well being of the County and its residents.

Winona County also contains a wealth of natural resources including an abundance of surface and ground water. The County also recognizes the importance of protecting these resources from pollution to ensure the health of the public and to maintain safe, high quality water for recreational, residential, agricultural, and commercial uses. The County established regulations to protect natural resources and the quality of life in Winona County while recognizing the importance of animal agriculture, and the beneficial uses of animal manure in the production of agricultural crops.

It is the intent and purpose of this Chapter to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community within the County while ensuring that farmers properly manage animal feedlots and animal wastes to protect the health of the public and the natural resources of Winona County. Therefore, Winona County adopts this Ordinance for the purpose of administrating animal feedlots and Conditional Use Permits in accordance to standards established in the Minnesota Rules Chapter 7020, and the stated Goals and Policies for agriculture as described in the County Comprehensive Plan.

#### 8.2 General Provisions

##### 8.2.1 Scope

From and after the effective date of this Ordinance and subsequent amendments, the use of all land and every building or portion of a building used for a feedlot or as part of a feedlot in Winona County shall be in conformity with the provisions of this Chapter. Pre-existing feedlot structures or areas which are not in conformity with the setback and area provisions of this Ordinance but were in conformity

with the Winona County Ordinance standards at the time when the pre-existing feedlot was originally established shall be allowed.

A feedlot that is non-conforming because of excessive animal-unit numbers, which exists at the time of adoption of this Ordinance, may continue, if the number of animal units does not increase. Whenever a non-conforming feedlot has reduced its animal-unit numbers over a period of more than four (4) years to a lesser number of animal-units, the operator shall not increase the animal-unit numbers.

### 8.2.2 Application

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the requirements for the promotion of the public health, safety, and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

### 8.2.3 Compliance

The use of any land for the establishment, expansion, or management of an animal feedlot shall comply with the provisions of this Ordinance, and the provisions of the Minnesota Pollution Control Agency Rules, Chapter 7020.

## 8.3 Administration

### 8.3.1 Feedlot Officer

The Winona County Planning Department administers the County Feedlot Ordinance. The Planning Director shall appoint the Feedlot Officer to discharge the duties of this Chapter under supervision of the Planning Director.

### 8.3.2 Duties and Powers

The Winona County Feedlot Officer shall have the following duties and powers:

- A. Administer and enforce the Winona County Feedlot Ordinance;
- B. Issue Construction Short Form Permits and Interim Permits;
- C. Receive and forward applications for State administered permits together with county recommendations to the Minnesota Pollution Control Agency;
- D. Supervise the management of all necessary records including those related to feedlot and manure management and construction of manure storage and runoff control structures and/or practices;
- E. Consult with SWCD, NRCS, MPCA and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures;

# Chapter 8

Table 8.1 Animal Unit Equivalents

	Animal (one of each)	Per Animal
Dairy	Mature dairy cow over 1,000 lbs	1.4 au
	Dairy cow under 1,000 lbs	1.0 au
	Heifer over 500 lbs	0.7 au
	Calf under 500 lbs, dairy/beef	0.2 au
Beef	Cow and calf pair	1.2 au
	Slaughter steer or stock cow	1.0 au
	Feeder cattle (stocker, heifer or backgrounding)	0.7 au
	Horse	1.0 au
Swine	Swine over 300 lbs.	0.4 au
	Swine 55-300 lbs	0.3 au
	Nursery pig under 55 lbs	0.05 au
	Sheep or lamb	0.1 au
	Goat	0.1 au
Chicken	Laying hen or broiler (liquid manure system)	0.033 au
	Chicken over 5 lbs. (dry manure system)	0.005 au
	Chicken under 5 lbs. (dry manure system)	0.003 au
	Turkey over 5 lbs.	0.018 au
	Turkey under 5 lbs.	0.005 au
	Duck	0.01 au
Other AU based on body weight		

- F. Maintain a record of all permits and registration material.
- G. Educate the public and feedlot operators to issues of this Ordinance such as potential feedlot pollution problems;
- H. Oversee the inspection of feedlot operations to ensure compliance with this Chapter;
- I. Consult with other County Departments, State and Federal agencies, and private consultants as needed to discharge these duties.
- J. Fulfill the requirements of a county feedlot pollution control officer as set out in Minnesota Rules Part 7020.1600, Subpart 2.

### 8.3.3 Administered by the County

The Winona County Feedlot Officer shall review applications and process as follows:

- A. All permit applications shall be processed in accordance with Minnesota Rules Part 7020.1600, Subpart 4a;
- B. Applications for State administered feedlots shall be first submitted to the Winona County Feedlot Officer. After review, the application and comments shall be forwarded to the MPCA; and
- C. No building permits directly related to the confined feeding, breeding, raising or holding of animals, or the handling or storage of manure shall be issued until a Construction Short Form Permit, interim permit, operating permit, NPDES permit or SDS permit, if required, has been issued by the Agency or Winona County.

### 8.3.4 Administered by the State

The County Feedlot Officer shall forward to the MPCA Commissioner, with recommendations and comments, all animal feedlot permit applications which fall within one (1) or more of the following categories:

- A. Animal feedlots that are required to obtain a permit under Minnesota Rules 7020.0405, Subpart 1A and 1B. This includes all feedlots of one thousand (1,000) animal units or more;
- B. Animal feedlots where manure is not used as a domestic fertilizer, or;
- C. Animal feedlots for which further technical review is desired by the County Feedlot Officer.

## 8.4 Registration & Permits

### 8.4.1 Registration

Registration shall be required for all animal feedlots of ten (10) animal units or more on a four (4) year cycle following the guidelines contained in Minnesota Rules Part 7020.0350, Subpart 4. Registration shall also be required for all animal feedlots of less than ten (10) animal units if they are located in Shoreland District and if modification or expansion of said animal feedlot is proposed.

A registration form shall be made available by the County Feedlot Officer and will include the information required under Minnesota Rules Part 7020.0350, Subpart 1.

A registered animal feedlot shall secure Winona County and/or State Permits when required under this Chapter.

#### 8.4.2 Permit Required

Any person owning or operating a proposed or existing animal feedlot having ten (10) animal units or more in a Shoreland area, or fifty (50) animal units or more anywhere else, shall make application to the County Feedlot Officer for a feedlot permit if any of the following conditions exist:

- A. A new animal feedlot is proposed;
- B. A change in the operation of an existing animal feedlot is proposed;
- C. A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations;
- D. An inspection by MPCA staff or the County Feedlot Officer determines that the animal feedlot creates or maintains a potential pollution hazard, and the MPCA staff or County Feedlot Officer provides written correspondence requesting that a permit application be submitted. The owner shall have at least fifteen (15) days to submit the permit application to the County Feedlot Officer.

No permit shall be issued for a feedlot having in excess of 1,500 animal units per feedlot site.

#### 8.4.3 Shoreland Review Required

Any animal feedlot of ten (10) animal units or less which is located within the Shoreland District may be reviewed by the County Feedlot Officer to determine if a potential pollution hazard exists. The County Feedlot Officer may place conditions upon the operations of such animal feedlots to limit their impact on surface water quality.

#### 8.4.4 Permit Application

Animal Feedlot permit applications must include the following information:

1. General Information:
  - a. Types and numbers of existing animals.
  - b. Types and numbers of proposed animals.
  - c. Total number of animal units of each animal type.
  - d. Site Plan that includes:
    - I. Animal confinement area types (buildings, lots), locations and dimensions.
    - II. Manure storage area types, locations and dimensions.
    - III. Distances of animal confinement and manure storage areas to the nearest property boundary.
    - IV. Location of nearest well.



Figure 8.1 Animal Feedlot example



Figure 8.2 County Pasture.

- V. Location of any sinkholes, blind valleys, water bodies, streams or intermittent streams and drain tile inlets.
- e. A listing of the names and addresses of all owners of the land, all owners of the feedlot facility, all owners of the livestock and all persons or entities providing financing or funds to the feedlot operator for feedlot related purposes.
2. A complete Manure Management Plan consisting of the requirements specified in items a, b, c or d below as applicable to the animal unit capacity of the animal feedlot.
  - a. Feedlots having three hundred (300) animal units or more shall submit a Manure Management Plan meeting requirements identified in Minnesota Rules Chapter 7020.
  - b. Feedlots having between two hundred (200) and two hundred and ninety-nine (299) animal units shall submit a Manure Management Plan containing the following elements:
    - I. An estimate of the volume of manure that will be produced at the site.
    - II. A plat page illustrating planned application areas.
    - III. Aerial photographs of planned manure application areas and identification of streams, intermittent streams and sinkholes within three hundred (300) feet of the planned application areas.
    - IV. Planned application rates either on a field specific basis and assumptions used to determine these rates.
    - V. Manure nutrient test results or estimated values used when determining planned application rates.
    - VI. A written description of how manure will be applied (surface, knife injected, sweep injected).
    - VII. An indication of how soon surface applied manure will be incorporated (within twelve (12) hours, twelve (12) hours to four (4) days, or more than four (4) days).
    - VIII. Manure spreader calibration results. When the manure handling system is changing, the owner must prepare and follow a plan for calibrating the manure spreader that will be used for application of manure.
  - c. Feedlots having between seventy five (75) and two hundred (200) animal units shall submit a Manure Management Plan containing the following elements:
    - I. An estimate of the volume of manure that will be produced at the site.
    - II. A plat page illustrating planned application areas.
    - III. Aerial photographs of planned manure application areas and identification of streams, intermittent streams and sinkholes within three hundred (300) feet of the planned application areas.
    - IV. Planned application rates either on a field specific or crop rotation basis and assumptions used to determine these rates.

- V. Manure nutrient test results or estimated values used when determining planned application rates.
  - VI. A written description of how manure will be applied (surface, knife injected, sweep injected).
  - VII. An indication of how soon surface applied manure will be incorporated (within twelve (12) hours, twelve (12) hours to four (4) days, or more than four (4) days).
  - VIII. Manure spreader calibration results. When the manure handling system is changing, the owner must prepare and follow a plan for calibrating the manure spreader that will be used for application of manure.
- d. Feedlots having less than seventy five (75) animal units shall submit a Manure Management Plan containing the following elements:
    - I. A written description of how manure will be applied (surface, knife injected, sweep injected).
    - II. A plat page illustrating planned application areas.
    - III. Aerial photographs of planned manure application areas and identification of streams, intermittent streams and sinkholes within three hundred (300) feet of the planned application areas.
3. Manure Management Plans for all feedlots shall:
    - a. Be reviewed by the feedlot owner or operator each year and adjusted for any changes in the amount of manure production, manure nutrient test results, crop rotations or other practices which affect the available nutrient amounts or crop nutrient needs on fields receiving manure.
  4. If applicable, identify the location(s) of any planned winter feeding areas and the distances of the feeding area to any streams, intermittent streams and sinkholes. The Plan shall also specify the method(s) that will be taken to manage the accumulation of manure at winter feeding areas.
  5. Except plans and specifications for concrete-lined manure storage areas having a capacity of twenty thousand (20,000) gallons or less, all plans for manure storage structures shall be prepared or approved by a registered professional engineer or a NRCS employee.
  6. Plans for disposal of dead animal carcasses.
  7. Application fees, permit fees and such other fees.

#### 8.4.5 Government Notifications of Proposed Construction or Expansion

1. An owner proposing to construct a new or expand an existing animal feedlot that will be capable of holding less than fifty (50) animal units outside of Shoreland or less than ten (10) animal units in Shoreland shall notify all local units of government (e.g. County, Township, Municipality) that may have zoning authority over the project. The notification must be on a form provided by the County



Figure 8.3 Example of Total Confinement.

SWCD: Soil and Water  
Conservation District

NRCS: Natural Resources  
Conservation Service

MPCA: Minnesota Pollution  
Control Agency

Figure 8.4 Agency acronyms

## Chapter 8

- ✓ Type & number of existing animals
- ✓ Type & number of proposed animals
- ✓ Total number of animal units of each animal type
- ✓ Site plan with required information
- ✓ Manure Management Plan
- ✓ Locations of winter feeding areas (if applicable)
- ✓ Plans for disposal of dead livestock
- ✓ Application, permit & other fees established by County Board

Figure 8.5 Animal Feedlot Permit Application requirements.

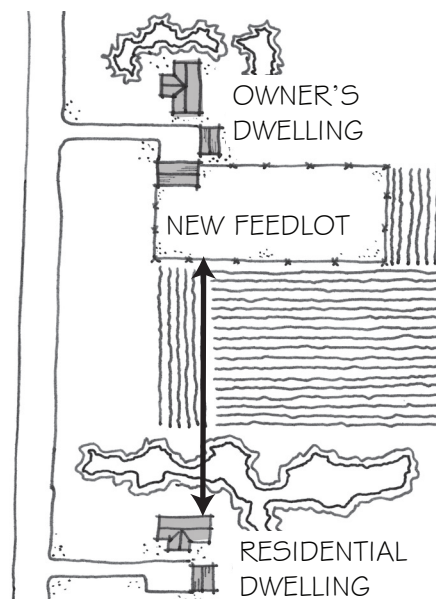


Figure 8.6 Feedlot setback to dwelling

Feedlot Officer and shall be completed at least thirty (30) days prior to commencement of construction of the new animal feedlot or an expansion of an existing animal feedlot.

2. Construction or expansion may begin upon receiving written or verbal approval from all authorities listed in 8.4.5(1). If the owner is not contacted by all authorities listed in 8.4.5(1), construction may begin thirty (30) days after completion of this notice.

### 8.4.6 Conditional Use Permit

Chapter 5 of the Winona County Zoning Ordinance defines the procedure for obtaining a Conditional Use Permit through the County Board of Commissioners. An application for a Conditional Use Permit is required when:

1. A new animal feedlot is proposed to have in excess of three hundred (300) animal units.
2. An existing animal feedlot is proposing a change in the operation which results in the feedlot having in excess of three hundred (300) animal units.

### 8.4.7 Individual Water Appropriation Permit

Any feedlot appropriating in excess of five (5) million gallons of water per year for an individual feedlot operation must obtain a individual Water Appropriation Permit from the Department of Natural Resources as prescribed by Minnesota Statutes, Chapter 103G and Minnesota Rules 6115.0600-6115.0810.

### 8.4.8 Notice of Application

1. When an application is made for a new feedlot or change in operation of an existing feedlot, the County Feedlot Officer shall mail a written notice of intent to the township and all property owners within one-half (1/2) mile radius of the facility. If some property owners residing within the one-half (1/2) mile radius are located within a municipality, written notice shall be provided to the municipality, in lieu of the individual property owners located within the municipality. A feedlot permit shall not be issued for a minimum of fourteen (14) calendar days from the time a complete application has been received and the notice of intent has been mailed to the township and property owners within one-half (1/2) mile of a feedlot going through the feedlot application process. The notification shall include the name and address of owner(s) and operator(s) of the livestock, location of the feedlot, a detailed description of the proposed change(s) in operation and/or new feedlot, a list of property owners within one-half (1/2) mile radius and Township representative that received the notification, type of livestock and total number of animal units proposed.
2. In addition to the notification done by the County in Section 1, persons applying for a new animal feedlot or animal feedlot expansion with a capacity of five hundred (500) animal units or



more are required to comply with notice requirements contained in Minnesota Statute Section 116.07, Subd. 7a.

**8.4.9 Duration of Operating Permits, Construction Short Form Permits and Interim Permits**

All Operating Permits, Construction Short Form Permits, and Interim Permits expire within twenty-four (24) months of the date of issuance. A holder of an Operating Permit may have the permit extended for twenty-four (24) months by submitting a written request to the Planning Department before the expiration of the original permit. The Planning Department can only extend Construction Short Form Permits and Interim Permits under the provisions contained in Minnesota Rules Part 7020.0535, Subpart 5.

**8.5 Minimum Standards**

Setback and location standards for feedlots and manure storage areas are measured from the outermost boundaries of the feedlot to the nearest existing dwelling. In the case of incorporated city limits, the measurement will be from the feedlot to the closest municipal line. In the case of parks (public), the measurement will be from the feedlot to the closest designated public structure, designated trail, or designated camp area within the park boundary.

**8.5.1 Setbacks**

The listed setback requirements do not apply to repair or modification related to an environmental improvement of an existing manure storage area, nor does it apply to solid settling basins constructed to handle / treat runoff only from existing animal feedlots where increases in animal numbers are not proposed, and as necessary to correct a potential pollution hazard.

**1. Neighboring Dwelling**

- a. No setback is required for feedlots with less than ten (10) animal units.
- b. Feedlots with ten (10) to fifty (10-50) animal units shall not be located within five hundred (500) feet of any dwelling, except for the dwelling of the feedlot owner or feedlot operator.
- c. Feedlots with more than fifty (50) animal units shall not be located within one thousand (1,000) feet of any dwelling, except for the dwelling of the feedlot owner or feedlot operator.
- d. Post-Ordinance Feedlot: Required to meet the setback requirements to dwellings established in this section.
- e. Pre-Ordinance Feedlot: The modification and/or expansion of a Pre-Ordinance feedlot not meeting the specified setback requirements of this section is allowed so long as the modification and/or expansion of the feedlot does not further

*Table 8.3 Livestock Feedlot Setbacks*

	Description	Distance
Property Lines	Buildings housing livestock, open feedlots, solid manure storage areas & short term stockpiling	50' or more to meet road setback reqs.
	Liquid manure storage areas & stockpile areas	100'
Neighboring Properties	Pre-Ordinance Feedlots: Residential dwelling, except of the feedlot owner/ operator. May be modified if no further encroachment on established setback.	Depends on Zoning District
	Pre-existing Feedlots: Restocked & expanded if no further encroachment on established setback.	Depends on Zoning District

*Table 8.4 Post-Ordinance Livestock Feedlot Setbacks*

	Description	Distance
Neighboring Properties	Sinkholes	300'
	Feedlot to residential dwelling	Depends on Zoning District
	Feedlot to incorporated city limit, school, church, platted subdivision or park(public)	half (1/2) mile
	Private well	100'
	Community, school or licensed child care center well	1000'
	Ordinary high water (OHW) level of public waters	300'
	Winter feeding area to OHW mark of any perennial stream	100'
	Winter feeding area to OHW mark of perennial stream if a 50' permanent non-pastured grass buffer is established between feeding area and stream	50'

### Special Protection Area-

Intermittent streams and ditches identified on United States Geological Survey quadrangle maps and the Winona County Soil Survey, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.

decrease the existing/established distance(s) between the feedlot and the neighboring dwelling(s).

- f. Pre-existing Feedlots: Pre-existing feedlots not meeting the specified setback requirements shall be allowed to be restocked and expanded so long as the restocking and/or expansion of the feedlot does not further decrease the existing/established distance(s) between the feedlot and the neighboring dwelling(s).
2. General Setbacks for all Feedlots
    - a. Setback requirements in this section do not apply to the dwelling of the feedlot owner and/or operator.
    - b. The expansion limitations and setbacks in this Section apply in addition to those established in Minn. Rule 7020.2005.
    - c. Setback requirements are measured from the outermost boundaries of the feedlot (total or partial confinement areas or manure storage areas) to the nearest existing dwelling.
    - d. Feedlots shall be located at least:
      - I. no setback from any incorporated city limit, school, church, platted subdivision or public park, when the feedlot has less than ten (10) animal units;
      - II. five hundred (500) feet from any incorporated city limit, school, church, platted subdivision or public park, when the feedlot has ten (10) to fifty (50) animal units;
      - III. one thousand (1000) feet from any incorporated city limit, school, church, platted subdivision or public park, when the feedlot has more than fifty (50) animal units. In the case of incorporated city limits, the measurement will be from the feedlot to the closest municipal line. In the case of parks (public), the measurement will be from the feedlot to the closest designated public structure, designated trail, or designated camp area within the park boundary.
    - e. Except as provided in Minnesota Rule 7020.2005 Subpart 1A and B, a new animal feedlot or a manure storage area must not be constructed:
      - I. Within shoreland, a floodplain;
      - II. Three hundred (300) feet of a sinkhole;
      - III. One hundred (100) feet of a private well;
      - IV. One thousand (1,000) feet of a community water supply well or other wells serving a public school as defined under Minnesota Statutes, section 120A.05, a private school excluding home school sites, or a licensed child care center where the well is vulnerable according to part 4720.5550, subpart 2;
      - V. Within the setbacks distances established in Minnesota Rules, Chapter 4725.
    - f. An existing animal feedlot or manure storage area located in a floodplain may not expand by increasing animal unit numbers at the site or by constructing or creating additional livestock buildings or lots.

- g. Winter feeding areas shall not be located within one hundred (100) feet of the ordinary high water mark of any perennial stream. Winter feeding area setback requirements may be reduced to fifty (50) feet if a fifty (50) foot permanent non-pastured grass buffer is established in-between the winter feeding area and the perennial stream.
- h. Property Lines:
  - I. Fifty (50) feet or more if necessary to meet road setback requirements/ROW - all buildings housing livestock, open feedlots and short term stockpiling sites.
  - II. One hundred (100) feet - liquid manure storage areas, solid manure storage areas, and permanent stockpile areas.

### 8.5.2 Geotechnical Investigations

The County Feedlot Officer may require if applicable, an engineering geology report/geotechnical study of the proposed building site describing the suitable of soils and the underlying geology to support the planned structures or facilities. If the engineering geology report/geotechnical study indicates conditions having moderate or severe limitations to the construction of structures or facilities on the site, the operator shall submit information demonstrating the project can reasonably and practicably mitigate the limitations.

### 8.5.3 Disposal of Animal Carcasses

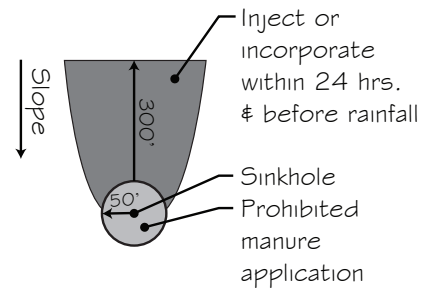
Dead animal disposal shall be consistent with the Minnesota Board of Animal Health Regulations Minnesota Rules Chapter 1719.

### 8.5.4 Land Application of Manure

All land application of manure or Process Wastewater shall comply with Minnesota Rules Part 7020.2225.

### 8.5.5 Restrictions on Land Application Sites

- A. An operator shall not apply manure or process wastewater to the right-of-way of public roads.
- B. An operator shall not apply manure or process wastewater to frozen or snow-covered soils in Special Protection Areas.
- C. Manure or process wastewater applied to unfrozen soils in special protection areas must comply with the subitem (a), (b), or (c):
  - a. A vegetative buffer must be maintained that:
    - I. Consists of perennial grasses or forages;
    - II. Is a minimum of one hundred (100) feet wide along lakes and perennial streams and fifty (50) feet wide in other special protection areas; and
    - III. Does not receive manure applications from any animal feedlot or manure storage area.
  - b. The following practices must be complied with:



Note: Max. rates cannot exceed crop N needs for non-legumes or crop N removal for legumes.

Figure 8.7 Feedlot manure application from Sinkhole

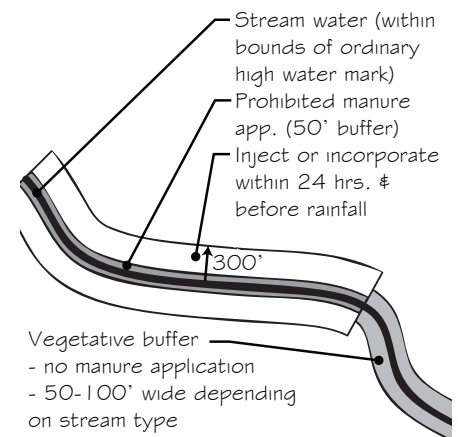


Figure 8.8 Manure setback for non-winter months.

For more information on BMP's see the MPCA and University of Minnesota Extension websites:  
 •<http://www.pca.state.mn.us/index.php/topics/feedlots/feedlots.html>  
 •[www.extension.umn.edu/Agriculture/](http://www.extension.umn.edu/Agriculture/)

For more information regarding sensitive areas please reference the MPCA Booklet: Applying Manure in Sensitive Areas



Figure 8.9 Manure application setback to a well.

- I. No application within fifty (50) feet of the protected water, protected wetland, intermittent stream, or drainage ditch in the special protection area;
- II. Inject or incorporate within twenty four (24) hours and prior to rainfall.
- c. Implementation of other MPCA approved practices that have been demonstrated through research by a Land Grant College to provide an equal degree of water quality protection as the measures in sub items (a) and (b).
- D. Manure and process wastewater application by a traveling gun, center pivot, or other irrigation equipment that allows liquid application of manure to travel more than fifty (50) feet in the air is prohibited in special protection areas.
- E. Manure or process wastewater applications in the Floodplain shall maintain the following standards:
  - I. No application to frozen or snow covered soils in the Floodplain.
  - II. Any application to unfrozen soils in the Floodplain shall be immediately incorporated.
- F. An operator shall maintain a minimum distance of one hundred (100) feet between all applications of manure or process wastewater and any private water supply well.
- G. A minimum distance of three hundred (300) feet shall be maintained between all application of manure or process wastewater and any public water supply well.
- H. An operator shall not apply manure or process wastewater within one hundred (100) feet of a residence without injecting or immediate incorporation into the soil unless permission in the form of a written agreement is granted to spread closer by the resident. When determining the distance between a residence and manure application, the distance shall be measured from the residence, not property lines, to manure application.
- I. Manure or process wastewater applications shall maintain the following setbacks from sinkholes:
  - a. Manure and process wastewater must not be applied to land within fifty (50) feet of a sinkhole.
  - b. Manure and process wastewater must be incorporated within twenty-four (24) hours of surface application when applied to land that slopes toward a sinkhole and is less than three hundred (300) feet from the sinkhole except that no setback incorporation is necessary where diversions prevent manure-contaminated runoff from entering the sinkhole.
  - c. In addition to following required setbacks for manure and process wastewater new or expanding feedlot operations that are required to apply for a Conditional Use Permit based on Chapter 5 of the Winona County Ordinance, shall clearly identify active sinkholes on owned or rented land where manure or process wastewater from the feedlot will be

applied. Identification of active sinkholes shall be made by either:

- I. placing permanent fence post or some other identifiable and visible indicator at known active sinkhole locations, or
- II. placing flags or some other identifiable and visible indicators at the required setback distance from known active sinkhole locations prior to a planned application of manure.

J. Any manure or process wastewater not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable State rules.

Table 8.5 Minimum State Requirements for Manure Application in Sensitive Areas

Sensitive Areas	Winter Setbacks	Non-Winter Setbacks			Other Requirements
		A: Surface Application	B: Incorp. +P mgmt.	C: Incorp. No P mgmt.	
Streams/inter. streams	300'	*300'	50'	*300'	
Lakes & Wetlands	300'	*300'	50'	*300'	
Open tile intakes	**300'	**300'	0'	0'	
Steeply sloping land	-	-	-	-	Permit may be needed
Road ditches	-	-	-	-	No application into ditch
Frequently flooded soils	-	-	-	-	Consider in mgmt. plan
High phosphorus soils	-	-	-	-	Permit may be needed No P build-up at some sites
High water table soils	-	-	-	-	Consider in mgmt. plan
Wells/wellhead protection	50'	50'	50'	50'	Permit may be needed
Sinkholes (without berms or diversions)	50' down 300' up	50' down 300' up	50'	50'	
Coarse-textured soils	-	-	-	-	Consider in mgmt. plan
Shallow soils over bedrock	-	-	-	-	Consider in mgmt. plan
Mines and Quarries	50'	50'	50'	50'	

A = Surface application with NO incorporation with 24 hours

B = Injection or incorporation within 24 hours AND phosphorus management\*\*\*

C = Injection or incorporation within 24 hours with NO phosphorus management\*\*\*

- = No specific requirements

\*Setbacks can be reduced from 300' to either 100' (lakes and perennial streams) or 50' (wetlands, drainage ditches, and intermittent streams). If permanent vegetative buffers that are at least 100 and 50 feet wide are planted along the waters.

\*\*The 300' open tile intake setback for non-incorporated surface application of solid manure is exempted until 2005.

\*\*\*Phosphorus management means that the application rate and frequency over six-year periods will not result in soil P build-up where soil P already exceeds 21 ppm Bray P1 or 16 ppm Olsen.

### 8.5.6 Manure Storage & Transportation

1. All animal manure shall be stored and transported in conformance with Minnesota Pollution Control Agency Rules 7020 and this Ordinance.
2. No manure storage area shall be constructed, located, or operated so as to create or maintain a potential pollution hazard unless a permit has been issued by Winona County or the MPCA.
3. Animal manure hauled on federal, state, or local highways, roads, or street must be hauled in such a way as to prevent manure from leaking, spilling, or otherwise being deposited in the right-of-way. Manure deposited on a public roadway must be removed and properly disposed of by the hauler of the manure.
4. A manure utilization plan specifying storage capacity adequate for the type and quantity of manure generated by the animal feedlot shall be developed as part of the permit process.
5. No steel tanks shall be used for underground manure storage.

### 8.6 Violations & Enforcement

1. 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. Each day that a violation continues will constitute as a separate offense.
2. Enforcement:
  - a. Stop Work Orders: Whenever an owner or the feedlot operator constructs or makes improvements to an animal feedlot contrary to the provisions of this Chapter, the Winona County Feedlot Officer, Environmental Services Director, or Planning Director may order the work stopped by written notice personally served upon the property owner or contractor performing said work. Such construction or improvements shall cease and desist until the County Feedlot Officer, Environmental Services Director, or the Planning Director subsequently removes the stop work order and approves the improvements.
  - b. Revocation or Suspension: Whenever any animal feedlot is operated in violation of the conditions set forth on the operating permit, interim permit or construction short form permit, said permit may be subject to revocation or suspension upon written notice personally served upon the owner or operator of the feedlot.
  - c. Interference Prohibited: No person shall hinder or otherwise interfere with the County Feedlot Officer or authorized assistants in the performance of duties and responsibilities required pursuant to this Ordinance.
  - d. Access to Premises: Upon the request of the County Feedlot Officer, the applicant, permittee or any other person shall

allow access at any reasonable time to the affected premises for the purposes of administering and enforcing this Chapter. Refusal to allow reasonable access to the County Feedlot Officer is a violation of this Chapter, whether or not any other specific violations are cited.

- e. Injunctive Relief and Other Remedies: In the event of a violation of this Chapter, the County Feedlot Officer or the Planning Director may request that the County Attorney institute appropriate actions or proceedings, including the seeking of injunctive relief, to prevent, restrain, correct or abate such violations. All costs incurred for such enforcement action may be recovered by the County in a civil action in any court of competent jurisdiction. These remedies may be imposed upon the owner, operator, applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

#### 8.6.1 Reporting of Spills and Accidental Discharges

1. Owners and operators of animal feedlots shall immediately report to the Minnesota Duty Officer and the County Feedlot Officer any accidental discharge of animal manure from a manure storage area or equipment used for the application of manure.
2. When manure spills occur that are greater than ten thousand (10,000) gallons, the Planning Department will attempt to contact within twenty four (24) hours the neighboring residents located within one half (1/2) mile or potentially affected properties. This notification will also occur with spills of lesser quantity that, due to their location, have the potential to detrimentally affect the quality of local groundwater (wells) and surface water (streams).
  - a. Within two (2) weeks, the Planning Department will report back to the County Administrator and the County Board on the causes and size of the spill or discharge, the effects on neighboring properties and the environment, and the steps being taken to prevent further occurrences.

#### 8.6.2 Abandonment/Accidental Discharge

Owners and operators of animal feedlots shall have joint and several liability for clean-up, closure or remediation of abandoned animal feedlot sites as well as for the clean up or remediation of the effects of spills and accidental discharges. At the discretion of the county, such costs may be certified to the County Auditor as a special tax against the real property involved.

CHAPTER 9: PERFORMANCE STANDARDS

9.1 General Building/Construction and Performance Requirements

9.1.1 Purpose

The purpose of this section is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses, to prevent blight, deterioration and decay, and to protect the health, safety and general welfare of Winona County residents.

9.1.2 Permitted Encroachments

The following features shall be considered as permitted encroachments on setback and height requirements: posts, off-street open parking spaces, gutters, awnings, open terraces, stoops, open canopies, steps, chimneys, flag poles, ornamental features, architectural features, open fire escapes, sidewalks, fences and all other similar devices incidental and apparent to the principle structure.

9.1.3 Temporary Dwelling Unit Restrictions

- A. No garage, tent, accessory building, travel trailer or motor home shall at any time be used as living quarters, temporarily or permanently, except as allowed by Section 9.1.3 (C).
- B. Tents, play houses, recreational camping vehicles (travel trailers), motor homes or similar structures may be used only for play or recreational purposes.
- C. Temporary establishment of dwelling units is allowed by administrative permit on lots during reconstruction or construction of the principal structure provided that:
  - a. The temporary dwelling unit is not established prior to development certificate approval for the reconstruction of the principal structure.
  - b. Occupancy of the temporary dwelling unit is limited to the residents of the prior or future principal structure.
  - c. The applicant demonstrate an intent to proceed with reconstruction of principal structure, including construction contracts, proof of financial or other evidence of intended project completion.
  - d. The temporary dwelling unit meet all setback requirements within the zoning district for which the property is located.
  - e. The temporary dwelling unit shall not exceed fifteen (15) feet in height.
  - f. The temporary dwelling housing unit is connected to a private water and sewer system approved by Winona County.

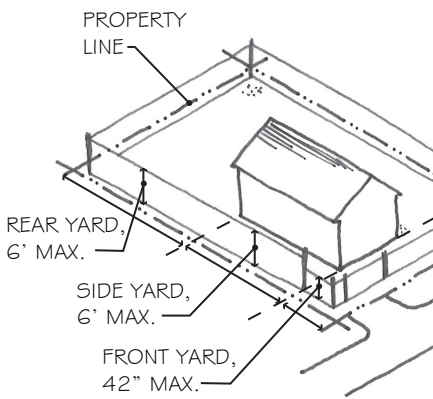


Figure 9.1 Residential District Fences diagram.

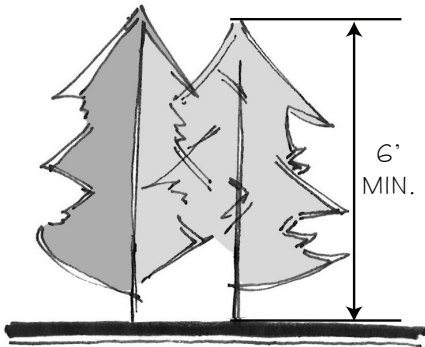


Figure 9.2 Green belt planting strip example.

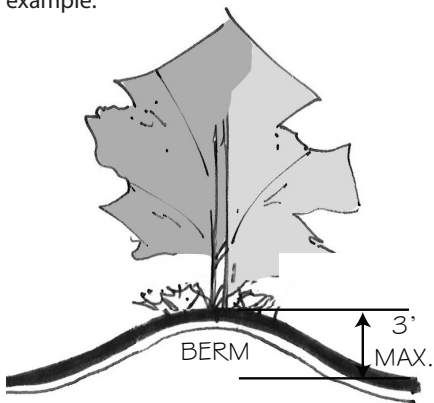


Figure 9.3 Green belt planting strip example.



- g. The applicant submit a permit/certificate application and a site plan (to scale) showing the location of lot lines, the proposed location of the temporary dwelling unit, the principal structure and other prominent site features.
- h. The Development Certificate provisions of Chapter 6 of this Ordinance are considered and satisfactorily met.

**9.1.4 Fences**

Fences shall be permitted in all parcels subject to the following:

- A. Location: All boundary line fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.
- B. All fences shall not obstruct natural drainage.
- C. Grade Modifications: Any modifications to the grade or drainage of a property in conjunction with the construction of a fence shall be subject to Chapter 9, land disturbance guidelines.
- D. Residential District Fences: All residential district fences shall be placed within the property being fenced.

**9.1.5 Fencing, Screening and Landscaping Standards**

The following standards are to be used by the County Board, Planning Commission, and Board of Adjustment when making decisions regarding this topic when involving projects pending public review.

- A. Fencing and Screening: Any non-residential use commercial/ industrial use (i.e., structure, parking or storage) which abuts property zoned for residential use, shall provide screening along the boundary of the residential property. Screening shall also be provided where a non-residential use is across the street from a residential zone, but not on that side of a non-residential use considered to be the front (as defined by this Ordinance). All fencing and screening specifically required by this Ordinance shall consist of either a fence or a green belt planting strip as provided for below and shall be reviewed by the SWCD or any other reviewer as determined by the Planning Department:
  - a. A green belt planting strip shall consist of coniferous trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen.
  - b. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect eight (8) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the Planning Director.

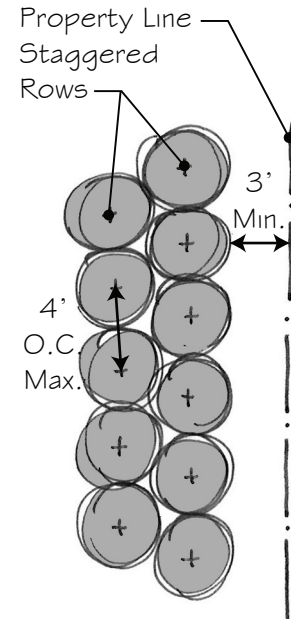


Figure 9.4 Plant spacing diagram.

Plant Type	Size
Shade tree	1.5-2" dia.
Ornamental Tree	1" dia.
Coniferous Trees	4-6'
Large Deciduous Shrubs	2-4'
Large Coniferous Shrubs	2'
Small Deciduous Shrubs	18-24"
Small Coniferous Shrubs	18-24" spread

Note: All trees shall be balled and burlapped (B&B) and shrubs shall be container grown unless otherwise approved by County staff.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

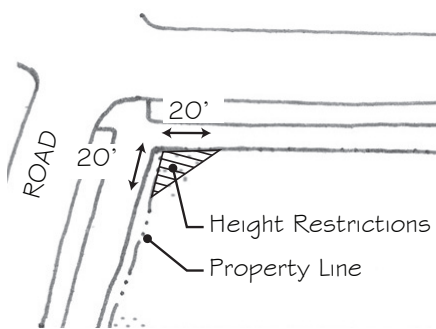


Figure 9.5 Traffic visibility diagram for corner lots.

- B. Landscaping, General Residential: Fences or trees placed upon utility easements are subject to removal at the cost of the property owner if required for the maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed twenty (20) feet in height. (The planting of large trees is not recommended under overhead wires.)
- C. Landscape plans are required for projects with a commercial or industrial use associated with them and are held to the following standards. All above referenced uses shall be subject to mandatory landscape plan prior to approval of a development certificate.
  - I. Landscape plan shall be developed with an emphasis upon the following areas:
    - i. The boundary or perimeter of the proposed site at points adjoining other property.
    - ii. The immediate perimeter of the structure.
    - iii. The perimeter of parking and loading areas.
  - II. All landscaping incorporated in said plan shall conform to the following standards and criteria:
    - i. All plants must at least equal the following minimum size found in Table 9.1.
      - 1. Type and mode of planting are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, irrigation, grading, etc.).
    - ii. Spacing:
      - 1. Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgment of the Planning Director.
      - 2. Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the Planning Director.
      - 3. Where plants or screening is intended, large deciduous and coniferous shrubs shall not be planted more than four (4) feet on center.
  - III. Design:
    - 1. The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).
    - 2. All areas within the property lines (or beyond, if side grading extends beyond) shall be treated. All exterior areas not paved or designated as drives, parking or storage, must be planted with ornamental vegetation (lawns, ground covers or shrubs) unless otherwise approved by the Planning Director.

3. Slopes that are to be maintained as turf in excess of 2:1 are prohibited unless approved by the Planning Director.
4. All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
5. All principal use structures shall provide an exterior water supply for use in landscape purposes.
- vi. Landscape Guarantee: All new plants shall be guaranteed for two (2) full years from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced, as determined by the Planning Department.
- vii. Existing Trees: With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for street, buildings, utilities, drainage or active recreational purposes. Trees over six (6) inches in diameter that are to remain, are to be marked with a red band, and to be protected with snow fences or other suitable enclosure, prior to any excavation. The Planning Department may further require that the property owner and/or developer retain a professional forester to prepare a forest inventory and management plan for the development, in order to control and abate any existing or potential shade tree disease and to save trees from construction loss.

- D. Mechanical Equipment: All rooftop and ground mounted mechanical equipment of non-residential buildings shall comply with the following standards:
- a. All rooftop and ground mounted mechanical equipment shall be buffered so as to mitigate noise in compliance with Chapter 9.

### 9.1.6 Traffic Visibility

1. Corner Lots: On corner lots in all zoning districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height two (2) feet and eight (8) feet within twenty (20) feet from the intersecting property lines. Said obstruction shall not be wider than two (2) feet.

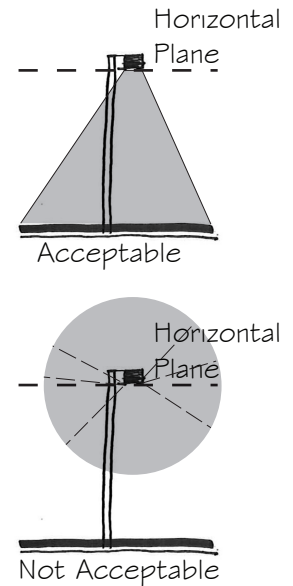


Figure 9.6 Lighting fixture Horizontal Plane Diagram

2. Fences, Walls, and Hedges: Except as may be erected by a governmental agency, no fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way. In required front yards or a required side yard abutting a street on a corner lot, fences, walls, hedges, or structures shall be at least seventy-five (75) percent open space for passage of air and light. These regulations shall apply unless it can be demonstrated that the structure provides an unobstructed view so as not to create a safety hazards.

### 9.1.7 Glare

Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential use or zone and from public thoroughfare. Direct or sky-reflected glare, when from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The lights shall be hooded or controlled in some manner so as not to light adjacent property or the public right-of-way. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public thoroughfare shall not exceed one (1) foot candle (meter reading) as measured from the center line of said thoroughfare. Any light or combination of lights which cast light directly on neighboring dwelling shall not exceed four (4) foot candles (meter reading) as measured from said dwelling.

### 9.1.8 Smoke

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Agency Standards, Minnesota Regulation APC 7011.2950.

### 9.1.9 Dust & Other Particulate Matter

The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

### 9.1.10 Air Pollution

The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116.061, as may be amended.

### 9.1.11 Noise

Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Agency Standards, Minnesota Rule 7030, as amended.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

### 9.1.12 Inoperable Vehicles

No more than three (3) inoperable vehicles shall be allowed on any one (1) property for a period not to exceed three (3) months. By exceeding the allowable amount of inoperable vehicles the site shall be considered a salvage yard and be held to 9.1.13 standards.

### 9.1.13 Salvage Yards

#### A. Location and Screening:

- a. All refuse and refuse handling equipment including but not limited to garbage cans and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye level view for all uses.
- b. Screening shall be at least six (6) feet in height and provide a minimum opaqueness of eighty (80) percent. Said facility shall comply with minimum setback requirements. All dumpsters, trash handling equipment, recycling containers, and enclosures shall be kept in a good state of repair with tight-fitting lids to prevent spilling and spread of debris.

### 9.1.14 Waste Material

Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system, the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State Fire Marshal, the Minnesota Pollution Control Agency, or the Department of Natural Resources.

### 9.1.15 Bulk Storage (Liquid)

All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids in excess of two thousand five hundred (2,500) gallons shall require a Conditional Use Permit in order that the Planning Director may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, above-ground liquid storage tanks having a combined capacity in excess of ten thousand (10,000) gallons shall secure a Conditional Use Permit within twenty-four (24) months following enactment of this Ordinance. The Planning Director shall require the development of diking around said tanks. Diking shall be suitably sealed and shall hold a leakage capacity equal to one hundred fifteen percent (115) of the largest tank. Any existing storage tank that, in the opinion of the Planning Director, constitutes a hazard to the public safety shall discontinue operations within five (5) years following enactment of this Ordinance.

### 9.1.16 Radiation Emission

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Department of Health.

### 9.1.17 Electrical Emission

All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

### 9.1.18 Temporary Storage of Fill

- A. Limitations: The temporary storage of fill from building excavations or construction projects shall be allowed in all zoning districts subject to the following conditions:
- a. Storage shall not exceed the term of the Development Certificate.
  - b. The storage shall be in compliance with requirements and approved by the Planning Director and/or SWCD.
  - c. Provisions as approved by the Planning Director and/or SWCD shall be made for erosion control.

### 9.1.19 Sales in Agricultural & Residential Zoning Districts

- A. Personal Vehicles, Trailers, Recreational Equipment, and Similar Items:
- a. Merchandise items for sale shall not be placed in any portion of the public right-of-way, public boulevard.
  - b. For sale signs on or in such merchandise shall be limited to two (2) square feet.
- B. Garage or Rummage Sales:
- a. Merchandise items for sale shall not be placed in any portion of the public right-of-way, or public boulevard.
  - b. Signs shall be governed by Chapter 9 of this Ordinance.

## 9.2 Manufactured Homes

### 9.2.1 Standards

1. Manufactured homes as principal uses or dwellings shall be allowed in the platted and unplatted areas of the A/RC, UR, and CD Districts provided they meet the following minimum standards:
  - a. Twenty-four (24) feet in width.
  - b. Have a minimum floor area of five hundred (500) square feet.
  - c. The dwelling is placed on a permanent foundation.
  - d. All other requirements of state law and county codes are met.
2. Manufactured homes shall only be allowed in the A/RC District, the unplatted and platted area of the UR, RR and CD Districts for part-time farm help, for health care reasons, for temporary dwellings, or emergency temporary dwellings, provided they meet the following minimum standards:

- a. Be at least twelve (12) feet in width.
- b. Have a minimum floor area of five hundred (500) square feet.

### 9.3 Manufactured Home Parks

#### 9.3.1 Intent

The intent and purpose of this Section is to assure quality development.

#### 9.3.2 Application

1. Each manufactured home park shall require a Conditional Use Permit. The application for a permit, in addition to other requirements, shall include the name and addresses of the developer and a general description of the construction schedule and construction cost. The application for a permit shall be accompanied by three (3) copies of plans which indicate the following:
  - a. Location and size of the manufactured home park.
  - b. Location, size and character of all manufactured home lots, central refuse disposal, roadways, parking spaces and sites, recreational areas and applicable setback dimensions.
  - c. Detailed landscaping plans and specifications.
  - d. Plans for sanitary sewage disposal, surface drainage, water supply systems, electrical service, telephone service and gas service.
  - e. Plans for street lighting system.
  - f. The method of disposing of garbage and refuse.
  - g. Location and size of all streets abutting the manufactured home park and all driveways from such street to the park.
  - h. Plans and specifications for all road construction either within the park or directly related to park operation to be reviewed by the County Engineer.
  - i. Floor plans of all service buildings to be constructed within the manufactured home park.
  - j. Such other information as may be required or requested by the County.
  - k. Plans for construction, if proposed, such as laundry drying areas, trails, sidewalks or storage areas, be provided.

#### 9.3.3 Performance Standards for Manufactured Home Parks

1. All manufactured homes shall be properly connected to a central water supply and a central sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the Planning Department. Where a public water supply is available to the manufactured home park or at the boundary of the park, a connection to said public water supply shall be provided for each manufactured home.

2. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to an appropriate depth and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. Plans for the disposal of surface stormwater shall be approved by the County Engineer and SWCD.
3. A properly landscaped area shall be adequately maintained in each manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.
4. Every structure in the manufactured home park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every structure shall be kept in good repair. All of said structures must be constructed to meet existing county regulations. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings conveniently and readily accessible for use by all occupants of that building.
5. The area beneath all manufactured homes shall be enclosed with manufactured home skirting or its equivalent in appearance subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related manufactured home equipment.
6. All manufactured home parks shall have an area or areas set aside for dead storage. This storage place shall be screened.
7. Advertising Devices shall conform to Chapter 9 standards.
8. Each manufactured home park shall be served by a storm shelter located within a reasonable distance of the park. In each manufactured home park in which a community center is located, it shall conform to the Minnesota Department of Health regulations.
9. All structures related to the operation of the park shall obtain a permit/certificate as required in Chapter 6.

### 9.3.4 Park Street System Standards

1. General Requirements: All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets and roads.
2. Park Entrance: Entrances to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. Within fifty (50) feet of an intersection, streets shall be at right angles where feasible as determined by the Township Board or County Engineer. No parking shall be permitted on the park entrance street for a distance of one hundred (100) feet from its point of beginning.
3. Street Construction and Design Standards for Publicly Owned Roads and Streets:



- a. Pavements: All streets shall be provided with a paved concrete or bituminous surface.
- b. Grades: Longitudinal grades of all streets shall be a maximum of twelve (12) percent. Grades of all streets shall be sufficient to insure adequate drainage. If conditions warrant, an adequate storm sewer system shall be provided to dispose of all drainage.

### 9.3.5 Insect and Rodent Control

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Minnesota Department of Health Standards.
2. Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
3. Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building material shall be stored at least one (1) foot above ground.
4. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
5. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health.

### 9.3.6 Fuel Supply and Storage

1. Natural Gas System: Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
2. Liquefied Petroleum Gas Systems: Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

### 9.3.7 Fire Protection

1. Manufactured home parks shall be kept free of litter, rubbish and other flammable material.
2. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.
3. Fire hydrants shall be installed if the park water supply system is capable to serve them in accordance with the following requirements:
  - a. The water supply system shall permit the operation of a minimum of two (2), one and one-half (1 1/2) inch hose streams.

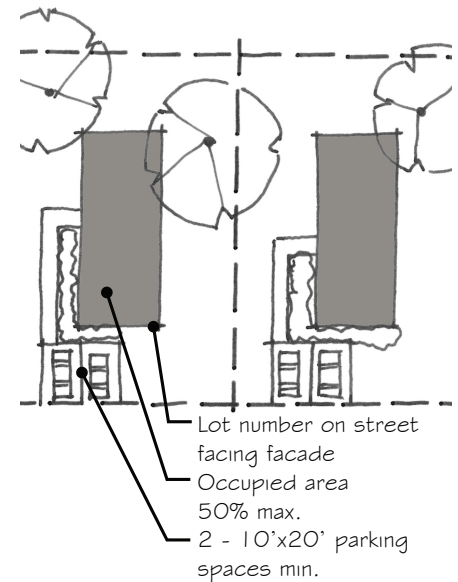


Figure 9.7 Manufactured home park lots diagram

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

- b. Fire hydrants, if provided, shall be located within five hundred (500) feet of any manufactured home, service building or other structure in the park.

### 9.3.8 Manufactured Home Park Lots

1. Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes.
2. The area occupied by a manufactured home shall not exceed fifty (50) percent of the total area of a manufactured home site; land may be occupied by a manufactured home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard or any structure.
3. Each manufactured home lot shall have off-street parking space for at least two (2) automobiles.
4. Each manufactured home shall be required to have the lot number address affixed on the portion of the house facing the street.

### 9.3.9 Manufactured Home Stands

All manufactured homes shall be anchored and blocked according to Minnesota State Building Code.

### 9.3.10 Park Management

1. The person to whom a permit/certificate for a manufactured home park is issued shall operate the park in compliance with this Ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair in a clean and sanitary condition.
2. The park management shall notify park occupants of all applicable provisions of this Ordinance and inform them of their duties and responsibilities under this Ordinance.
3. An adult caretaker must be readily available and is responsible for the maintenance of the park at all times.
4. Each park shall have an office for the use of the operator distinctly marked "OFFICE".
5. The operator of every manufactured home park shall maintain a registry in the office of the manufactured home park indicating the name and addresses of each permanent resident. Each occupied manufactured home site shall be identified by number.
6. A map of the manufactured home park shall be available at the manufactured home park office.
7. Dogs and animals shall not be permitted to run at large within the manufactured home park.
8. Park management shall provide a screened or fenced central collection for the disposal of garbage, waste and trash. Outside garbage cans and/or dumpsters shall be prohibited except at the central collection point.

**9.3.11 Performance Standards: Recreational Vehicles in  
Manufactured Home Parks**

1. All recreational vehicles shall be connected to utilities, including, but not limited to, sewer, water and electricity.
2. Each recreational vehicle shall not be placed in a manufactured home park for less than two (2) weeks, unless it is being stored and not used for occupancy.
3. No manufactured home park shall have more than three (3) recreational vehicles at any given time.

**9.3.12 Manufactured Home Park Inspections**

1. AUTHORITY.
  - a. The Planning Director is hereby authorized to make inspections as are needed to determine satisfactory compliance with this Ordinance.
  - b. The Planning Director shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the Ordinance.
  - c. The Planning Director shall have the power to inspect the register containing a record of all residents of the park.
  - d. The Planning Director shall have the authority to issue notices of violations and work orders in order to correct violations or protect the health and safety of park residents and guests in accordance with this Ordinance.
2. INSPECTION PROCEDURES.
  - a. Whenever the Planning Director determines that there are reasonable grounds to believe that there has been a violation of this Ordinance, the Planning Director shall give written notice of such violation to the park management. Such notice shall include:
    - I. A statement of the violation and the reasons for its issuance;
    - II. Corrective orders; and
    - III. A reasonable timetable for the performance of any orders.
  - b. Any person affected by any notice or order which has been issued in connection with the enforcement of this Ordinance, may request and shall be granted a hearing before the Board of Adjustment.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

**9.4 Commercial Recreation Campgrounds Regulations**

**9.4.1 Permit/Certificate**

In addition to other permit/certificate requirements of this Ordinance, the applicant shall submit three (3) copies of the plans, which indicate the following:

1. Location and size of recreation campground.

2. Location and size of all lots, dead storage areas, recreation areas, laundry drying areas, roadways, trails, parking spaces and sites and all setback dimensions.
3. Detailed grading plan with ten (10) foot contour intervals.
4. Plans for sanitary sewage disposal, surface drainage, water supply systems, electrical service and gas service.
5. Plans for a park lighting system.
6. The method of disposing the garbage and refuse.
7. Location and size of all streets servicing the campgrounds.
8. Construction plans and specifications for roadways within the campgrounds.
9. Plans for any and all structures.
10. Such other information as may be required or requested by the County.

### 9.4.2 Performance Standards for Commercial Recreation Campgrounds

1. All water supply and sanitary facilities must conform to the current health standards of the Minnesota Department of Health and Pollution Control Agency.
2. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the State Department of Health, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. All utility connections shall be approved by Winona County Environmental Services prior to connection. Plans for the disposal of surface stormwater shall be reviewed by the County Engineer and Soil and Water Conservation District.
3. All land area shall be adequately drained and properly maintained free of refuse, garbage, rubbish or debris. The proposed method of garbage, waste and trash disposal must meet or exceed the current Winona County Environmental Services standards.
4. All structures shall require a zoning certificate.
5. No recreation campground shall be located so that drainage from the campground area will endanger any water supply. All campgrounds shall be well drained.
6. Each lot, or pair of lots, shall contain adequate containers to store, collect and dispose of refuse and garbage so as to not create health hazards, rodent damage, insect breeding, accident or hazardous fire areas or air pollution.
7. All centralized refuse collection containers and equipment and park maintenance equipment shall be stored in a screened and fenced service yard within the campground.
8. All campgrounds shall have an adult caretaker with instruction on how to reach that person posted at all times.

9. All campgrounds shall be equipped with at least one (1) central toilet which meets or exceeds the requirements of the Minnesota Department of Health, except that in primitive tent camping areas, only toilet facilities shall be required as per the Minnesota Department of Health.
10. Incidental Recreation Campgrounds are exempt from the requirements of Section 9.4.

### 9.5 Performance Standards for Recreational Camping Vehicles

The following performance standards shall apply to recreational camping vehicles that are not associated with commercial recreation campgrounds:

1. No more than four (4) recreational vehicles per parcel of land.
2. The recreational vehicle shall have a current motor vehicle license and is built upon a single chassis.
3. All setbacks including bluff setbacks, vegetative removal, floodplain and shoreland standards must be observed.
4. Treatment of sewage waste generated at the site shall be treated and system permitted according to Chapter 13 and Minnesota Rules Chapter 7080. Privies and composting sewage treatment systems shall be constructed and permitted according to Chapter 13 and Minnesota Rules Chapter 7080.

### 9.6 Recreational Cabins

The following performance standards shall apply to recreational cabins that are not associated with commercial recreation campgrounds:

1. A recreational cabin shall have a maximum size of nine hundred (900) square feet and have an overall building height of no more than fifteen (15) feet.
2. There may be no more than one (1) recreational cabin per parcel of land.
3. The minimal continual parcel size for a recreational cabin shall be one (1) acre.
4. Recreational cabins may not be occupied for more than four (4) continuous months per calendar year.
5. All performance standards including but not limited to bluff, property line/road setbacks, vegetative removal, sensitive lands, floodplain and shoreland standards must be observed.
6. Treatment of sewage waste generated at the site shall be treated by an approved MN SSTS method. Privies and composting sewage treatment systems are also permitted and shall be designed and constructed to MN SSTS rules. Plans/designs shall be reviewed/inspected by the Planning Department prior to approval of Development Certificate for cabin.
7. Recreational cabins shall be exempt from driveway/access dimensional standards.

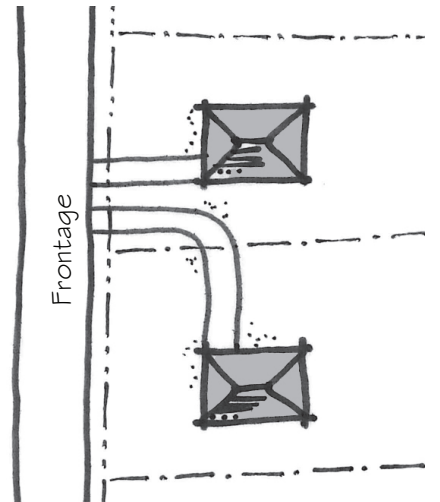
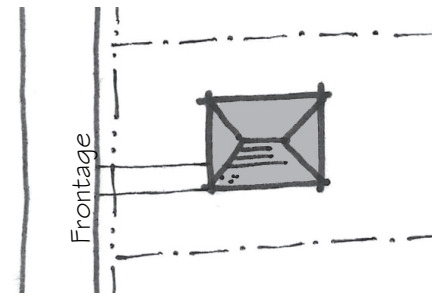


Figure 9.8 Parcel access for residential development shall originate from the required frontage.

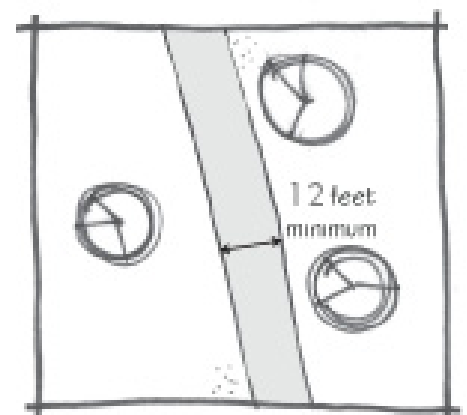


Figure 9.9 Driveways shall have a minimum hard surface width of 12 feet.

9.7 Access/Driveways

Driveways constructed for new residential dwellings and existing access drives when it is to be used as a residential driveway shall be subject to the following performance standards.

The following standards may be applied to existing residential driveways when the driveways use is intensified either through a Conditional Use Permit, a Variance request or when the access is proposed to serve additional dwellings.

1. Driveway Access Minimum: Single family uses shall be limited to one (1) driveway access per lot, except when the property exceeds the required street/road frontage or easement per zoning district requirements, a second driveway access may be allowed by approval of the Planning Director, Township, County, State or Federal Highway Department and follow the standards below:
  - a. Access to a parcel for development of a dwelling shall be gained by the road/street that is being used to meet the required road frontage or easement requirements for development.
  - b. To limit site disturbance, consolidation of driveway accesses for development shall be at the discretion of the Planning Director.
2. Driveway Standards:
  - a. Driveway/access grade elevation shall not exceed twelve (12) percent. The grade percentage shall be determined in one hundred (100) foot segments over the entire driveway.
  - b. At least thirteen and one-half (13.5) feet of nominal vertical clearance shall be provided and maintained over the full width of the driveway.
  - c. Driveways shall have an unobstructed width of not less than twelve (12) feet covered in a hard pack material for the entire length of the driveway to within one hundred fifty (150) feet of the dwelling.
  - d. Dead end driveways that exceed three hundred (300) feet in length shall be provided with one of the following turnaround designs:
    - I. a turnaround with a minimum thirty five(35) foot radius to the outside edge of the driveway;
    - II. a "Hammerhead T" with a minimum of sixty (60) feet across the top and minimum twenty (20) feet wide;
    - III. a 'Y' with a minimum of sixty (60) feet deep on the upper portions of the 'Y'.

The turn around shall be located at the closed end of the driveway and is designed and maintained to support imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

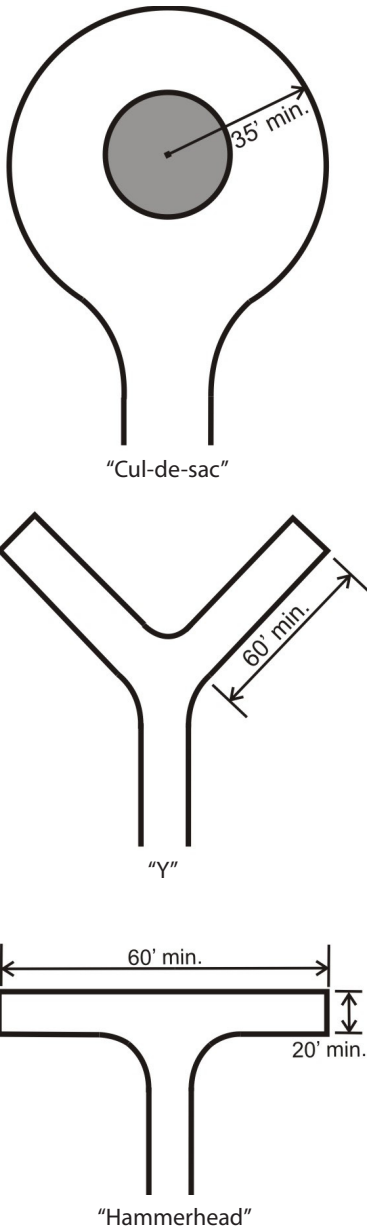
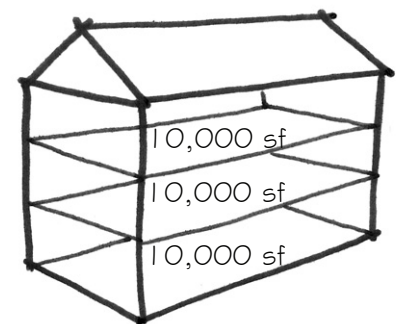


Figure 9.10 Turn around options

- e. Any bridge constructed as part of the driveway shall provide a width of no less than that required for the driveway.
  - f. Any bridge in a driveway shall be designed to support any vehicle within the legal load limits.
  - g. Turns and/or curves in driveways shall be constructed to provide sufficient width to accommodate the largest piece of local fire apparatus to be operated on the driveway, but in no case shall the radius to the outside driveway edge be less than fifty (50) feet.
  - h. Driveways dimension standards shall not include shoulders, sidewalks, ditches or drainage areas.
  - i. Driveway plans shall be reviewed by the local fire department chief responsible for the protection of the property when deemed necessary by the Planning Director.
3. Private Access: For all developments accessed via private driveways or roads maintained by an individual owner or a common partnership, the owner or partnership shall provide adequate provision of their responsibility to operate and maintain the driveways and roads by supplying the governing Township legal assurances, which shows a self-perpetuating operation and maintenance schedule.
4. All private driveways or roads shall be maintained by the above mentioned individual owner or common partnership in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. Individuals or common partnerships installing driveways or roads not dedicated to the public shall operate and maintain them at no expense to any governmental unit.
5. All privately maintained driveways or roads shall be constructed in accordance with all applicable standards of the Winona County Zoning Ordinance.



1 space/400 gross ft of Floor Area.

$$10,000 \times 3 = 30,000 - 10\% = 27,000$$

$$27,000 / 400 = 67.5$$

68 spaces required

Figure 9.11 Example for calculating square footage (sf) for Business/Professional.

## 9.8 Off-Street Parking Requirements

### 9.8.1 Purpose

The following standards may be applied to existing residential Off Street Parking when the parking use is intensified either through a Conditional Use Permit, a Variance request or when the parking is proposed to serve additional dwellings.

The purpose of regulating off-street, parking spaces in this Ordinance 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 of off-street parking or motor vehicles in accordance with the utilization of various parcels of land or structures.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

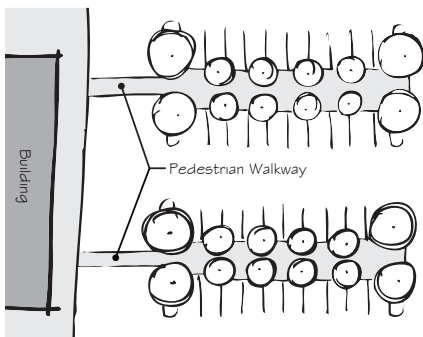


Figure 9.12 Idealized landscaping standard for parking lots provides highly visible pedestrian circulation

## 9.8.2 Scope of Parking Regulations

The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the County.

## 9.8.3 General Provisions

1. Application: For the purposes of this Ordinance, the off-street parking provisions of this section shall apply to all motorized vehicles including, but not limited to, passenger automobiles, trucks, vans and motorcycles, unless otherwise specified herein.
2. Site Plan: Parking plans for projects with Commercial or Industrial associated uses with them shall drawn to scale and dimension indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this Section.
3. Reduction of Existing Off-Street Parking Space or Lot Area: Off-street parking spaces and loading spaces or lot area existing upon the effective date of this Section shall not be reduced in number or size, unless said number or size exceeds the requirements set forth herein for a similar new use.
4. Change of Use or Occupancy of Land: No change of use or occupancy of land already dedicated to parking spaces, driveways, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this Section.
5. Change of Use or Occupancy of Buildings: Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there are additional parking spaces furnished as required by this Section.
6. Disability-Accessible Parking: Disability-accessible parking spaces shall be provided as applicable pursuant to Minnesota Statutes 169.346, as may be amended.

## 9.8.4 Parking Design

Off-Street Parking constructed for new residential dwellings shall be subject to the following performance standards.

The following standards may be applied to existing Off-Street Parking when the parking area intensified either through a Conditional Use Permit, a Variance request or when the parking is used to serve additional dwellings.

1. Calculating Space.
  - a. Floor Area: The term "floor area" for the purpose of calculating the number of off-street parking spaces shall be determined on the basis of the exterior area, dimensions of the buildings, structure or use, times the number of floors, minus ten (10) percent to account for space occupied by heating and cooling units, elevators and other auxiliary features.



- b. Computation: When determining the number of off-street parking spaces, any fraction of a number shall constitute an additional space.
- c. Places of Public Assembly: In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining parking requirements.
- d. Snow Storage in Parking Stalls: Provision shall be made in the parking area for adequate snow storage or removal in order to ensure that the required number of spaces are available at all times during the year.
- e. Use of Required Area: Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles unless approved by the Planning Director.
- f. The Planning Director has the authority to determine the parking space requirements for an unspecified use based on previous experiences with a similar use and on expected traffic volume.
- g. When the numbers of employees determine the parking space requirements, number represents the largest shift of employees.

2. Design.

- a. Circulation: Traffic circulation systems shall be designed to accommodate anticipated traffic demands. Vehicular traffic generated by a use shall be channeled and controlled in a manner which will avoid congestion or interference with other vehicular transportation systems and pedestrians and which will avoid creating traffic hazards or excessive traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the County and funded by the applicant, which may require additional measures for traffic control as it may deem necessary, including but not limited to the following: directional signage, channelization, standby turn lanes, sidewalks, illumination and other facilities within the site to prevent a backup of vehicles on public roads.
- b. Parking Space Size: All required off-street parking spaces shall comply with the minimum dimensions of a parking space as defined in Chapter 4.
- c. Pedestrian Provision: All off-street parking areas shall be designed with due regard to pedestrian circulation. Off-street parking areas shall be designed such that vehicle and pedestrian circulation is accommodated in a safe, complementary, and orderly fashion.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

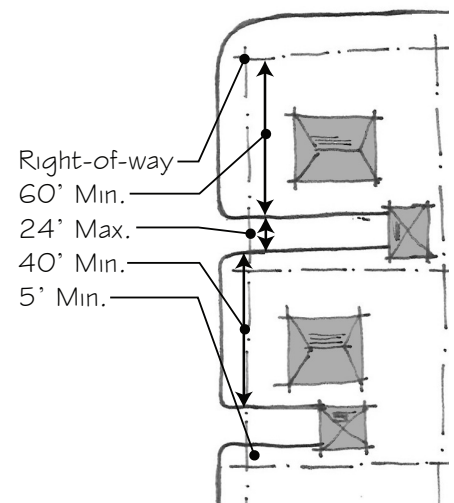


Figure 9.13 Curb cut design diagram.

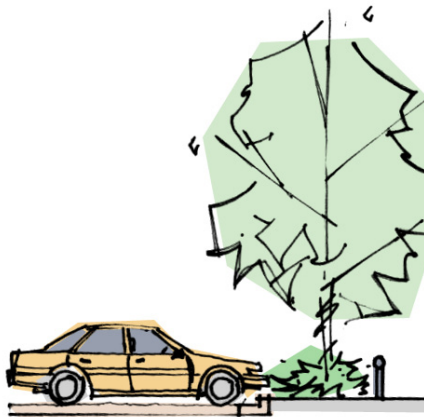


Figure 9.14 Example of parking lot screening.

- d. Compact Car Spaces: Up to twenty (20) percent of the parking spaces in a parking lot may be permanently marked for compact cars only, provided that:
  - I. The parking lot contains forty (40) or more off-street parking spaces.
  - II. All compact car spaces are a minimum of eight (8) feet in width and sixteen (16) feet in length.
  - III. Signs and markings, as approved by the County, are placed and maintained in each compact car space.
  - IV. All required off-street parking aisle widths are maintained.
  - V. The compact car stalls do not displace preferred handicap parking stall locations.
  - VI. The design, layout, and location of designated compact car spaces shall not encourage utilization by oversized vehicles and shall be subject to approval by the Planning Director.
- e. Dimensional Requirements: Unless otherwise specified in this Ordinance, stall, aisle and driveway design for required off-street parking shall comply with the standards provided in Section 9.8.5.
- f. Street Access: Except as allowed by a Conditional Use Permit or property subdivision, each off-street lot shall have access directly onto an abutting, improved and County accepted public road or street.
- g. Within Structures: The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached thereto; however, unless provisions are made, no Development Certificate shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance.
- h. Lot Circulation: Except in the case of single family dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single family dwellings, parking area design which requires backing into the public street is prohibited.
- i. Intersection Separation: No curb cut access shall be located less than sixty (60) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.
- j. Curb Cut Size: No curb cut access shall exceed twenty-four (24) feet in width unless approved by the County Engineer.
- k. Side Yard Setback: Except with special approval from the Planning Director or County Engineer, curb cut openings shall be a minimum of five (5) feet from the side yard property line in all districts.

- l. Curb Cut Spacing: Where curb-cuts are deemed necessary, except for single family dwellings, driveway access curb openings on a public street shall not be located less than forty (40) feet from one another.
- m. Grade: Parking area grade elevation shall not exceed four (4) percent.
- n. Lighting: Any lighting used to illuminate an off-street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way, and shall be in compliance with Glare provisions located in Chapter 9.
- o. Required Screening: All open off-street parking areas of five (5) or more spaces shall be screened and landscaped from abutting or surrounding residential districts and uses, and the public right-of-ways, following standards for such screening located in Chapter 9.
- p. Snow Storage: Adequate space for snow storage shall be provided on the site so as not to reduce the required minimum number of parking spaces. In those cases where excessive snow cannot be properly stored on site, it shall be immediately removed from the site.
- q. Driveway Turn Around: In the case of single family dwellings which front on streets designated as collector, minor arterial, and principal arterial by the County's Comprehensive Plan, the installation of a vehicle turn-around space, immediately adjacent to the access driveway is allowed. Where possible, said space shall be located away from the principal structure and shall be no closer than twenty (20) feet from the street surface. Said space shall not be utilized for parking or storage purposes.
- r. Advertising Devices: No device shall be located as to restrict the sight lines and orderly operation and traffic movement within any parking lot or driveway. All devices shall be in conformance with provisions set forth in Chapter 9 for Advertising Devices.
- s. Cart Storage: Retail commercial uses exceeding fifty-five thousand (55,000) square feet in gross floor area may be required to provide ample space for the storage of customer service carts within off-street parking areas. The need and specific amount of required cart storage space shall be determined as part of site plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and include facilities for cart confinement.

#### 9.8.5 Maintenance

Table 9.2 Off-Street Parking Space Requirements	
Use	Spaces Required
One & two family residential	2 per DU
Multiple dwellings	2 per DU
Churches & theaters	1 per 3 seats or 1 per 5' of pew length
Business & professional	1 per 400 sf of gfs
Medical & dental	5 per doctor or dentist, plus 1 per employee
Hospital & sanitarium	1 per 3 beds, plus 1 per 4 employees and 1 per resident and staff doctor
Convalescent & nursing home	1 per 4 beds, plus 1 per 4 employees
Hotel & motel	1 per unit, plus 1 per employee
School	Elem. & Jr. High, 3 per classroom
	HS & College, 1 per 4 students, plus 3 per each classroom
Drive-in restaurant	1 per 15 sf of gfs
Bowling alley	5 per alley, plus 1 per employee, add for restaurant
Auto service station	2 min, plus 4 per service stall
Retail store	1 per 150 sf of gfs
Restaurant, cafe, bar, tavern & night club	1 per 3 seats
Mortuary	8 per chapel or parlor, plus 1 per funeral vehicle
Industrial & warehouse	1 per employee (max. shift) or 1 per 2,000 sf of gfs, whichever is larger

It shall be the joint responsibility of the lessee and owner of the principal use, uses or buildings to maintain in a neat and adequate manner, the parking space, access ways, striping, landscaping and required screening.

### 9.8.6 Location

Off-Street Parking constructed for new residential dwellings shall be subject to the following performance standards.

The following standards may be applied to existing Off-Street Parking when the parking area intensified either through a Conditional Use Permit, a Variance request or when the parking is used to serve additional dwellings.

1. Required accessory off-street parking shall be on the same lot under the same ownership or lease as the principal use being served.
2. Except for single family dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.
3. There shall be no off-street parking within fifteen (15) feet of any street surface.
4. The boulevard portion of the street right-of-way shall not be used for parking.
5. Required accessory off-street parking for non-residential uses shall not be provided in front yards (or in side yards in the case of a corner lot) in any residential district, except as allowed for model homes and temporary real estate offices.
6. In the UR, RR, or the CD Zoning Districts, parking for single-family residences shall be prohibited in any portion of the front yard, except designated driveways leading directly into a garage or one (1) open, surfaced space located on the side of a driveway. The owner of the subject property containing the said extra space shall surface the space with either concrete, asphalt or in cases of existing gravel driveways, the owner may use gravel for the additional parking.
7. With the exception of seasonal recreational equipment of limited size and weight, the same parking standards for seasonal recreational equipment shall apply as outlined herein. In cases of seasonal recreational equipment of limited size and weight, the surfacing required herein shall not apply and the equipment may be parked over what is traditionally grass. Seasonal recreational equipment of limited size and weight may include boats, campers designed to be mounted on automotive vehicles, snowmobiles, boat trailers, motorcycle trailers and tent or travel trailers.

### 9.8.7 Use of Required Space

Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, repair work, storage of inoperable vehicles, and/or storage of snow.

### 9.8.8 Number of Off-Street Parking Spaces Required

The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth.

1. One and Two Family Residences: Two (2) spaces per dwelling unit.
2. Multiple Dwellings: Two (2) spaces per dwelling unit.
3. Churches, Theaters and Places of Assembly: One (1) space per each three (3) seats or for each five (5) feet of pew length, based upon maximum design capacity.
4. Business and Professional Offices: One (1) space for each four hundred (400) square feet of gross floor space.
5. Medical and Dental Clinics: Five (5) spaces per doctor or dentist, plus one (1) space for each employee.
6. Hospitals and Sanitariums: At least one (1) parking space for each three (3) hospital beds, plus one (1) space for each four (4) employees, other than doctors, plus one (1) parking space for each resident and regular staff doctor.
7. Convalescent or Nursing Homes: One (1) parking space for each four (4) beds for which accommodations are offered, plus one (1) space for each four (4) employees.
8. Hotel or Motel: One (1) space per rental unit plus one (1) space per employee.
9. Schools:
  - a. Elementary and Junior High: Three (3) spaces for each classroom.
  - b. High School through College: One (1) space for each four (4) students based upon design capacity plus three (3) additional spaces for each classroom.
10. Drive-in Food Establishments: One (1) space for each fifteen (15) square feet of gross floor space in the building allocated to drive-in operation.
11. Bowling Alley: At least five (5) parking spaces for each alley, plus additional spaces as may be required for related uses such as restaurant, plus one (1) additional space for each employee.
12. Automobile Service Station: At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.
13. Retail Store: At least one (1) off-street parking space for each one hundred and fifty (150) square feet of gross floor area.
14. Restaurants, Cafes, Bars, Taverns, and Night Clubs: At least one (1) space for each three (3) seats based upon capacity.
15. Mortuary: Eight (8) spaces for each chapel or parlor, plus one (1) space for each funeral vehicle maintained on the premises.

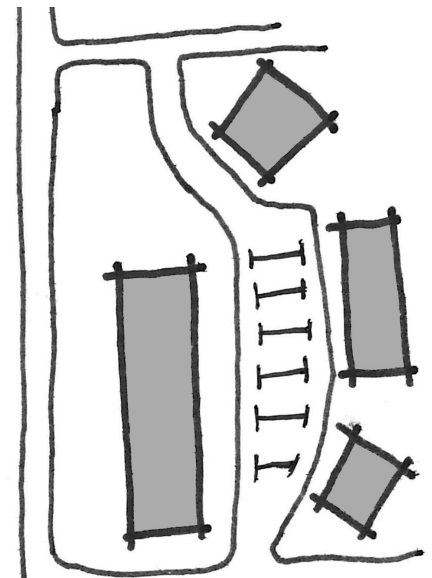


Figure 9.15 Commercial areas to have shared driveways and parking areas.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

16. Industrial, Warehouse, Storage, Handling of Bulk Goods: One (1) space for each employee on maximum shift or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever is larger.
17. Uses not Specifically Noted: As determined by the County Board following review by the Planning Commission.

### 9.8.9 Space Reductions

Subject to the review and processing of a permit/certificate as regulated by Chapter 6 of this Ordinance, the Planning Director may reduce the number of required off-street parking spaces and/or loading spaces when the use can demonstrate in documented form a demand which is less than required by this Ordinance. In such situations, the Planning Director may require land to be reserved for parking development should the use or needs change.

### 9.8.10 Joint Facilities

The County Board may, after receiving a report and recommendation from the Planning Commission, place a condition on the permit/certificate for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. Such condition shall not be granted except when the following conditions are found to exist:

1. Entertainment Uses: Up to fifty (50) percent of the parking facilities required for a theater, bowling alley, or other commercial recreational facilities may be supplied by the off-street parking facilities provided by type of uses specified as primarily daytime uses in item number 4 below.
2. Night Time or Sunday Uses: Up to fifty (50) percent of the off-street parking facilities required for any use specified under Subsection 9.8.11 (3)(4) below, as primarily daytime uses may be supplied by the parking facilities provided by the following uses which typically have their major parking demand occurring during night time or weekends; auditoriums incidental to a public or parochial school, churches, bowling alleys, theaters, or apartments.
3. Schools, Auditorium and Church Uses: Up to eighty (80) percent of the parking facilities required by this section for a church, or an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified under item number 4 below as primarily daytime use.
4. Daytime Uses: For the purpose of this section, the following uses are considered as primary daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair, service shops, manufacturing, wholesale and similar uses.

5. Additional Criteria for Joint Parking: In addition to the preceding requirements, the following conditions are required for joint parking usage:
- a. Proximity: The building or use which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities, excluding public rights-of-way.
  - b. Conflict in Hours: The applicant shall demonstrate in documented fashion that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
  - c. Written Consent and Agreement: A legally binding instrument, executed by the parties concerned, for joint use of off-street parking facilities, duly approved as to title of grantors or lessors, and in a form and manner of execution approved by the County Attorney, shall be filed with the with the Winona County Recorder, and a certified copy of the recorded document shall be filed with the County within sixty (60) days after approval of the joint parking use by the County or the permit/certificate shall be considered null and void.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

#### 9.8.11 Off-Site Parking

- A. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.
- B. The parking lot is to be used only for the parking of passenger automobiles of employees, customers or guests of the person or firm controlling and operating the lot, said person to be responsible for its maintenance.
- C. The parking lot is not to be used for sales, repair work or servicing of any kind.
- D. Reasonable access from off-site parking facilities to the use being served shall be provided.
- E. No advertising sign or material is to be located on the property where the parking lot is located.
- F. All parking is to be kept back and out of the established road right of way.
- G. Except as provided below, the site used for meeting the off-site parking requirements of this Section shall be under the same ownership as the principal use being served or under public ownership.
- H. Except as provided below, off-site parking for non-residential uses shall not be located more than three hundred (300) feet from the main public entrance of the principal use being served.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

- I. Any use which depends upon off-site parking to meet the requirements of this Section shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.
- J. Compliance with off-street parking requirements provided through leased off-street parking may be approved by the Planning Department, subject to the following conditions:
  - a. The lease shall specify the total number and location of parking spaces under contract and this number, when added to any on-site parking required, must be equal to the total number of parking spaces required.
  - b. The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the County.
  - c. The lease agreement shall incorporate a release of liability and any other provisions, as recommended by the County Attorney that are deemed necessary to ensure compliance with the intent of this Section.
- K. Any such other conditions as may be deemed necessary by the County Board during the Conditional Use Permit process to protect the welfare and character of the nearby land uses.

### 9.8.12 Off-Street Bicycle & Motorcycle Parking

Provisions shall be made for the off-street parking of bicycles and motorcycles in all multiple family and non-residential developments and uses. Plans for such facilities shall be reviewed and evaluated on an individual project or use basis as part of site plan review when deemed necessary by the Planning Director.

## 9.9 Advertising Devices / Signs

### 9.9.1 Purpose

The purpose of this Section is to regulate advertising devices placed for observance so as to protect property values, maintain the character of Winona County, facilitate the creation of an attractive, and harmonious landscape, protect against danger in travel and transportation, improve and protect the public health, safety, convenience and general welfare, and to further the purposes and intent of the Zoning Ordinance.

### 9.9.2 General Regulations

1. Advertising devices under the authority of Minnesota Statute Chapter 173 are exempt from the regulations of this Ordinance as the State has control of these devices.
2. The State of Minnesota Statutes Chapters 173 regulates advertising devices visible to and primarily intended to advertise and inform, or to attract, or which attract the attention of those traveling in



areas designated by the State of Minnesota as scenic byways if applicable. The County has the authority as well to regulate such advertising devices.

3. Except for the advertising devices under the authority of Minnesota Statute Chapter 173, all other devices placed in Winona County must comply with the following general siting and design standards:
  - a. No advertising device shall be allowed that is a hazard to public health, safety, convenience, welfare or that prevents entrance or departure from any door, window or fire escape that tends to accumulate debris as a fire hazard or that is attached to a stand pipe or fire escape.
  - b. No advertising device may be erected that by reason of position, shape, movement, color or any other characteristics interferes with the proper functioning of traffic signs or signals or otherwise constitute a traffic hazard. No advertising device shall be permitted that would interfere with traffic control.
  - c. As determined by the Planning Director, County Engineer, MNDOT, or County Sheriff, any advertising device which becomes structurally unsafe or endangers the safety of a building or premise or endangers the public safety shall be repaired or removed by the owner, agent or person having beneficial use of the building, structure or land upon which said device is located.
  - d. Any advertising device which no longer advertises a bonafide business or product shall be taken down and removed by current property owner.
  - e. The Ordinance permits illuminated advertising devices but prohibits flashing advertising devices, except ones giving time, date, temperature, weather or similar public service information. Prohibited are advertising devices giving off an intermittent or rotating beam or ray of light. Illuminated advertising devices shall be constructed and maintained so as not to direct light onto adjacent properties or onto the public right-of-ways. All advertising devices and displays using electrical power shall have a cut-off switch outside of the attached building or structure, and shall have been inspected by a Minnesota State Building Code Official.
  - f. Private advertising devices are prohibited within the public right-of-way of any road.
  - g. The owner or lessee of any advertising device shall be required to have such a device properly maintained.
  - h. The maximum overall height of any advertising device shall not exceed forty (40) feet including any sign face extensions, borders, trim, base supports, and other structural members. All advertising devices shall meet all Local, State, and Federal building and electrical code requirements.

- i. No advertising devices may be attached to a tree or other vegetation, utility pole, fence, curbstone, rock, sidewalk, lamppost, hydrant, bridge, highway marker, or another sign.
  - j. No advertising device shall be placed or constructed upon a berm.
  - k. No person shall place, paste, print or affix, in any manner, a handbill, sign, poster, advertisement, advertisement device or notice of any kind in any public right-of-way.
  - l. Any nonconforming, advertising device or supporting structure may be continued, but may not be replaced or otherwise increased in nonconformity except as specified herein or as permitted by the provisions of this Section.
4. Political advertising devices erected on Election Day at officially designated polling places are permitted. Owners may place political advertising devices on their property, and each device shall not exceed thirty-two (32) square feet, or exceed eight (8) feet in height.
  5. Official Signs, such as traffic control, parking restrictions, information and notices are allowed when erected and maintained by public officers or public agencies.
  6. Dynamic Signs shall have no flashing, special effects, or animated scenes. All images and messages displayed must be static, and the transition from one (1) static display to another must be direct and immediate without any special effects. Each image and message must remain constant for at least eight (8) seconds before changing to the next one (1). Each image and message must be complete in itself, and may not continue on the subsequent one (1). No sign may be brighter than necessary for adequate visibility, and may not be of such intensity or brilliance as to impair the vision of a driver with average eyesight or to otherwise interfere with drivers' operation of their vehicles. No sign may be of such intensity, brilliance or location where it would interfere with the effectiveness of an official traffic control sign, signal or device, or otherwise interfere with the safety of the public, as determined by the County Engineer.

### 9.9.2.1 Permitted Signage

1. The Zoning Ordinance allows the following advertising devices in all districts without the requirement of a Advertising Device Permit. However, the Planning Department requires the property owner or their authorized agent to submit a site plan and device specifications for review by the Department before proceeding with the installation.
  - a. Advertising devices for the purposes of identifying the name of schools, churches, community buildings, or other public or semi-public institutional buildings, residential subdivisions, apartments or mobile home parks, that do not exceed thirty-two (32) square feet, not exceed a height of six (6) feet in total

height, and have a minimal setback of ten (10) feet from the public right-of-way.

- b. One bulletin board not illuminated except by indirect light and not exceeding thirty-two (32) square feet for any church, school, or other similar public or semi-public structures.
- c. Permanent off-site directional devices intended for the purposes of directing traffic to such civic or public facilities as churches, schools, or public parks, provided such signs do not exceed six (6) square feet in area and are not placed so as to create a traffic hazard.
- d. Devices erected by the County, the State, any municipality, or public utility, including traffic-control and safety signs, handicapped parking signs, railroad signals, entrance and exit signs, signs indicating scenic or historical places, welcome signs, public directional signs and memorial plaques.
- e. Any flags bearing the official design of a nation, state, city, or organizations, a corporation or a school or decorative flags.
- f. On-site directional devices for the purpose of directing traffic and parking on the same lot as the signs. Such devices shall not exceed five (5) square feet, exceed six (6) feet in height, and located outside any public right-of-way.
- g. Devices warning the public against hunting, fishing, dumping, trespassing, dangerous animals, swimming or the like. Such devices may be freestanding or attached to a fence or tree.
- h. Building names, dates of construction, commemorative tablets and the like, when carved in stone, concrete or similar material, or made of bronze, aluminum or other permanent type of construction, and made an integral part of the building of the structure.
- i. Advertising devices accessory to an agricultural use for the purpose of identifying such agricultural uses or advertising the products thereof, including seed and demonstration test areas. No such device shall exceed thirty-two (32) square feet in area, a height of six (6) feet, and have a minimum setback of ten (10) feet from the public right-of-way.
- j. Advertising devices erected by farm operators on their property, barns, or other accessory buildings giving their name, the name of the farm, and the year the farm was established. No such device shall exceed thirty-two (32) square feet in area, a height of six (6) feet, and have a minimum setback of ten (10) feet from the public right-of-way.
- k. No advertising device shall be placed or constructed upon a berm.
- l. Temporary real estate advertising devices on any property being sold, leased, or developed if they are not illuminated, or placed in any required side or rear yard. Temporary real estate advertising devices may not exceed twenty-four (24) square feet, exceed six (6) feet in height, and have a minimum setback of ten (10) feet from the public right-of-way. These

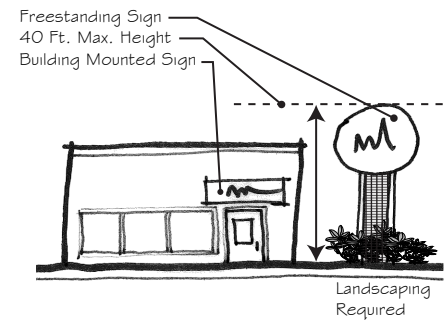


Figure 9.16 On premise advertising device

devices shall be promptly removed when the sale, lease or development of the property has been completed.

- m. Any temporary construction advertising device which announces the names of architects, engineers, contractors, other individuals or firms involved with the construction, alteration or repair of a building or development. The device may also announce the character and the intended purpose of an enterprise the building will accommodate. These devices shall be located on the construction site, may not exceed thirty-two (32) square feet, and be placed out of the road right of way.
- n. Banners or flags announcing an event for a civic, charitable, educational, historical or religious organization. Such signs may be mounted on a building or freestanding, and may be on or over public property or right-of-way with the approval of the Planning Department. These devices do not have to be located at the event site, and the organization may keep the device erected for a maximum of sixty (60) days.

### 9.9.2.2 On Premise Signage

1. The County considers on premise advertising devices as accessory uses to the principal on the site. Such devices require the issuance of an Advertising Device Permit before installation and comply with the following standards:
  - a. Building-mounted advertising devices or signs, either single or double-faced and freestanding signs may be erected on a commercial or industrial site, provided the device, including any structure to which it is attached, shall not exceed forty (40) feet in height, shall be set back not less than ten (10) feet from the road right-of-way, and from the adjacent property line. Building mounted devices shall not project more than eighteen (18) inches from the wall of the building.
  - b. The advertising device shall not be larger in total surface area than one hundred (100) square feet per face.
  - c. The advertising device shall contain only the logotype, trademark or name of the company, commercial or industrial center on the property.
  - d. No advertising device shall be placed or constructed upon a berm.
  - e. Each individual parcel may only have one (1) freestanding advertising device. However, within commercial or industrial centers containing more than one (1) business, the freestanding sign may identify all businesses in the center but in this instance, the combined total area of the sign shall not exceed one hundred (100) square feet.
  - f. Businesses with drive-up windows may have directional devices and one exterior menu board with said devices directed toward customers on the site, and shall not display any product advertising visible by passing motorists or

pedestrians. Directional devices and exterior menu boards may not exceed forty (40) square feet or a height of six (6) feet.

- g. For businesses having service bays, may have wall advertising devices identifying special functions of the various service bays provided they do not exceed ten (10) square feet each, and do not contain any product advertising.
- h. All on premise, advertising devices must be internally illuminated, and have no flashing lights or any moving parts.
- i. The Planning Department requires the placement of shrubs, perennials, and/or ground covers around the base of all freestanding, advertising devices, and that landscaping must be attractively maintained.
- j. Bases of freestanding, advertising devices shall have an exterior composed of masonry, finished split face block, stone, hardwood, polymer material with a wood appearance, metal, or other sturdy material that matches or complements the face of the sign. The base shall have a minimum width that is seventy five (75) percent the width of the advertising device face. For monument devices that are designed with two (2) columns or masts as the supports, they shall only be constructed of brick, stone, hardwood, or polymer material with a wood appearance that matches or complements the face of the advertising device.

### 9.9.2.3 Off Premise Signage

- 1. The County classifies off premise advertising devices as a principal land use, and such devices may be on the same property as other principal land uses provided each use complies with all applicable standards of this Ordinance.
  - a. Each face of an off premise, advertising device shall not exceed three hundred (300) square feet, and no structure shall contain more than two (2) such faces in the same direction, and shall not be separated by more than twelve (12) inches.
  - b. Off premise, advertising devices shall have a minimum separation distance of one thousand (1,000) feet from one (1) device to another, and fifteen hundred (1,500) feet from any residence, church, school, or health care institution.
  - c. Each building-mounted, advertising device shall not exceed three hundred (300) square feet, and there shall be no more than one (1) such face on any building wall facing in the same direction.
  - d. Building-mounted, off premise advertising devices must have a minimum separation of two hundred (200) feet from any freestanding or building-mounted device on the same side of the street, and five hundred (500) feet from any residence, church, school, or health care institution on the same side of the street.

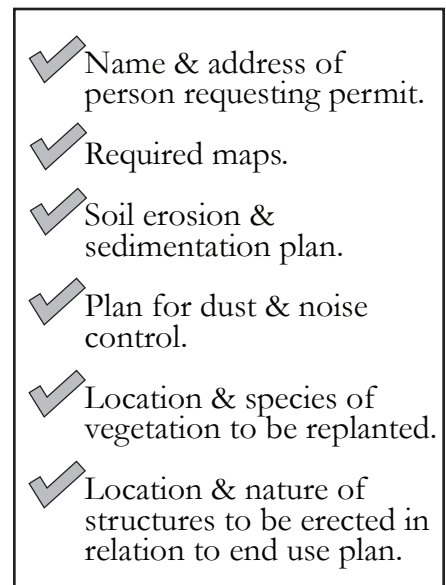


Figure 9.17 Required information for Extraction Pits/Land Alterations.

- e. Off premise, advertising devices cannot exceed a height of forty (40) feet, and must use indirect and non-flashing lighting.
- f. No advertising device shall be placed or constructed upon a berm.

Table 9.3 Off Premise Advertising Devices				
Type	Area	Height	Separation Distance	Notes
Freestanding	300 sf max.	40 ft	1,000 ft. between each	No more than 2 faces in same direction, only separated by 12 inches or less.
			1,500 ft. from residence, church, school or health care institution	
Building-Mounted	300 sf max.	40 ft.	200 ft. from any free-standing or building mounted device	No more than 1 face on any building wall facing the same direction.
			500 ft. from residence, church, school or health care institution	

### 9.10 Extraction, Extraction Pits, Mining and Land Alterations

#### 9.10.1 Purpose

Winona County developed and adopted an extensive comprehensive land use plan in 2014. The Comprehensive Plan requires Winona County to, among other things, recognize the vitality of family farms, promoting policies that support Winona County’s strong tradition of locally owned agricultural operations and the administration of best practices, the promotion of local food systems, and the stewardship of the land and its resources to retain the viability of agriculture for future generations. The Comprehensive Plan also requires Winona County to value the importance of sound environmental practices that promote the efficient use of all natural resources. The use of resources should promote responsible stewardship through sound conservation practices, regulate exploration and drilling operations to minimize pollution problems and the impact on agricultural areas and environmentally sensitive areas, maintain, protect, and improve the quality of groundwater resources, particularly the high-yielding aquifers used for drinking water and connected to surface hydrological features, and promote land management practices by all levels of government that protect the natural resources in the County, including streams, rivers, wetlands, aquifer recharge areas, woodland and forests, bluffs and agricultural areas. This section on excavation, extraction, pits, and mining is to protect natural landscapes from excessive excavation and raining activity; protect water resources, aquifers, streams, and rivers from excessive contamination and appropriation; minimize soil erosion; protect agricultural land and farming activity; protect existing recreational and tourism businesses;

\*9.10 revised by Winona County Board, November 22, 2016

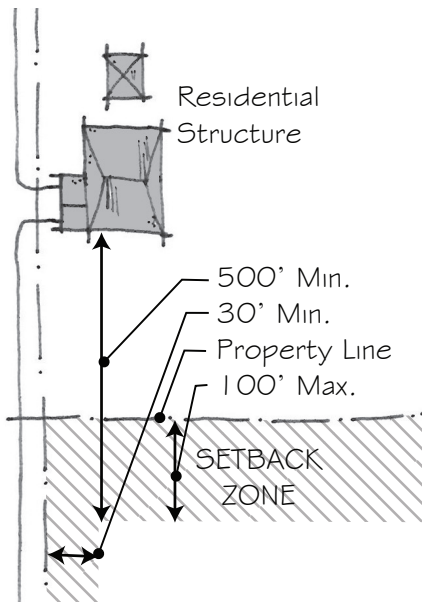


Figure 9.18 Setback for Extraction Pits/Land Alterations

protect residents' health, safety, and general welfare, prevent the industrialization of agricultural, open space, and residential communities; minimize road and bridge damage from high volume and heavy truck traffic hauling industrial minerals, and minimize land use conflicts.

Minnesota Statutes Section 116C.99 Subd. 2(a) recognizes that standards and criteria for mining, processing, and transporting silica sand "shall be different for different geographic areas of the state. The unique karst conditions and landforms of southeastern Minnesota shall be considered unique when compared with the flat scoured river terraces and uniform hydrology of the Minnesota Valley. The standards and criteria developed shall reflect those differences in varying regions of the state."

#### 9.10.2 Industrial Mineral Operations are Prohibited

Industrial mineral operations, which includes excavation, extraction, mining, and processing of industrial minerals are prohibited in Winona County. This prohibition does not apply to any use legally established prior to the adoption of this Section 9.10.2. Any change to an established use shall, however, be done in accordance with the provisions of this section and/or section 10.11.

#### 9.10.3 Administration

- a. A Conditional Use Permit shall be required for all extraction pits and land alteration operations. The County Board may also require a performance bond of one hundred and ten (110) percent of estimated reclamation expenses from the land owner.
- b. The crushing, washing, refining or processing other than the initial removal of material shall be considered a conditional use. Quarries producing or manufacturing veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a conditional use. The manufacture of concrete building blocks or other similar blocks, the production or manufacturer of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered as a conditional use. Wells used in the process of mineral exploration that use five (5) million gallons or more a year are considered a conditional use.

#### 9.10.4 Required Information

The following information shall be provided by the person requesting the permit:

1. Name and address of person requesting the mining permit.

2. The exact legal property description and acreage of area to be mined.
3. The following maps/documents of the entire site and to include all areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below.
  - Map/Document A - Existing conditions to include:
    - i. Contour lines at five (5) foot intervals.
    - ii. Existing vegetation.
    - iii. Existing drainage & permanent water areas.
    - iv. Existing structures.
    - v. Existing wells.
  - Map/Document B - Proposed operations to include:
    - i. Structures to be erected.
    - ii. Location of sites to be excavated showing depth of proposed excavation.
    - iii. Location of excavated deposits showing maximum height of deposits.
    - iv. Location of storage of excavated materials, showing the height of storage deposits.
    - v. Location of vehicle parking.
    - vi. Location of storage of explosives.
    - vii. Erosion and sediment control structures.
  - Map/Document C - Reclamation Plan to include:
    - i. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
    - ii. Location and non invasive species of vegetation to be replanted.
    - iii. Location and nature of any structures to be erected in relation to the end use plan.
4. A soil erosion and sediment control plan.
5. A plan for dust and noise control.
6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
7. Any other information requested by the Planning Commission or governing body.

### 9.10.5 Performance Standards

1. **WATER RESOURCES:** The extraction pit or land alteration operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operation. The work done shall not adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the mining district shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site.



2. **SAFETY FENCING:** Any operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:
  - a. Where collections of water occur that are one and one-half (1½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence of at least four (4) feet in height.
  - b. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similar effective barrier such as a snow fence at least four (4) feet in height. Earthen berms also may be constructed to prevent access to the steeper slopes.
3. **ACCESS ROADS:** The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance or public road in view so that any turns onto the public road can be completed with a margin of safety.
4. **SETBACK:** Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of said structures. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured in writing. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of an existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
5. **APPEARANCE:** All buildings, structures and plants used for the production of processing of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
6. **HOURS OF OPERATION:** All operations shall be conducted between the hours of 6:00 AM and 10:00 PM CST. Permission may be granted for operations beyond these hours to respond to public or private emergencies or whenever any reasonable or necessary repairs to equipment are required to be made.
7. **TOPSOIL MANAGEMENT:**
  - a. **Removal:** Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall

be performed, prior to any mining activity associated with any specific phase of the mining operation.

- b. Volume: The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.
  - c. Storage: Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.
8. FINAL GRADING & SLOPES:
- a. All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to Chapter 9 to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this Subsection, the County may require that a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.
  - b. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the extraction pit site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
  - c. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically six (6) feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.
9. DRIVEWAY/ACCESS FOR SITE:

- a. Driveway/access to the commercial/industrial site shall not be located within twenty-five (25) feet of adjacent property boundaries.
- b. Driveway/access shall also receive applicable Township/Highway Department/State/Federal approval.

**9.10.6 Reclamation**

All sites shall be reclaimed immediately after operations cease. Reclamation shall be complete within one (1) calendar year after operation ceases. The following standards shall apply:

1. Within a period of three (3) months after the termination of a operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a permit, all buildings, structures and plans incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.
2. Topsoil Redistribution for Reclamation: Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.
3. Assessing Completion of Successful Reclamation:
  - a. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan approved pursuant to this Chapter. Criteria to evaluate reclamation success shall be quantifiable.
  - b. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
    - I. On-site inspections by Winona County or its agent;
    - II. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
    - III. A combination of inspections and reports.
  - c. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
  - d. Re-vegetation success may be determined by:
    - I. Comparison to an appropriate reference area;

<i>Table 9.4 Setbacks for Exploratory Boring Sites</i>	
	<b>Setback</b>
State Highway*	130 feet
County & State Aid Roads*	100 feet
Township Roads*	65 feet
Adjoining Property Line	200 feet
Nearest occupied residence	500 feet
Electrical Line	100 feet
Gas Line	150 feet
Prep. or storage area for spray materials, commercial fertilizers or chemicals	150 feet
Below grade manure storage area**	100 feet
Buried sewer, septic tank, subsurface disposal field or privy	100 feet
Existing water well	200 feet
Lake or stream	200 feet

\*from road center line, \*\* conforming to MPC Regulations

- II. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
  - III. Comparison to an approved alternate technical standard.
  - e. Re-vegetation using a variety of plants indigenous to the area is encouraged.
4. Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this Subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this Chapter.

### 9.10.7 Non-Conforming Extraction Pits

Existing non-conforming pits shall be required to submit a reclamation plan following the standards in this Section.

## 9.11 Subsurface Mineral Exploration

Exploration of oil and natural resources can have a serious effect on land and the groundwater below. It is the intention of this Section of the Ordinance to monitor any exploratory activity, to insure such activity is in compliance with state law.

Remote sensing/exploration that does not disturb any soil do not require a Conditional Use Permit.

### 9.11.1 Conditional Use Permit

All Subsurface Mineral Exploration borings shall require a Conditional Use Permit in all zoning districts. Individuals or organizations wishing to undertake oil or mineral exploration in Winona County must provide sufficient proof to the County Planning Department, legal authority to explore and/or mine in Winona County. See Minnesota Statute Chapter 103I.

### 9.11.2 General Information

The following information shall be required to be submitted by the applicant as part of the conditional use permit for exploratory borings:

1. A description of the mineral or minerals which are the subject of the exploration.
2. A copy of the lease arrangement with the landowner shall be provided. This lease shall be recorded in the County Recorder's Office prior to granting the permit. The time limit and the location of the Conditional Use Permit shall be incidental to that of the lease arrangement.
3. A map indicating the location of the proposed exploratory boring(s).
4. A copy of the license provided by the Minnesota Department of Health for Exploratory Boring.

5. The applicant shall post a surety performance bond in an amount of one hundred and ten (110) percent of cost of installation per hole to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground water and surface water. The bond shall be released two (2) years after exploration has ceased unless the County finds, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed.
6. An exact, technical description of the exploration process, types of equipment to be used, and an estimated timetable for each phase of work and for final completion of the program.
7. A general description of the regional environmental conditions to include surface land use and vegetation, as well as a general description of the area's geological formations and hydrology.
8. A description of the major environmental impacts that exploration will create as well as a proposed plan to mitigate those impacts including such items as soil erosion, air and water contamination, as well as related hazards to public life and safety.
9. A plan shall be provided for the reclamation of the land after exploration is completed. Surface reclamation shall take into account the impact on adjacent land uses, natural resources and the proposed future use of the lands explored. The plans shall include:
  - a. A reclamation schedule.
  - b. Method used to plug drill holes.
  - c. Method of grading, backfilling and contouring of exploration sites and access roads.
  - d. Methods of waste management and disposal, including liquid and solid wastes such as tailings.
  - e. Method of revegetation.

### 9.11.3 Exploratory Boring Construction Requirements

At least ten (10) days prior to commencement of exploratory boring the explorer shall submit to the Minnesota Department of Natural Resources a map indicating the location of the proposed exploratory boring to the nearest estimated forty (40) acre parcel. A copy of this map shall be submitted to the Winona County Planning Department and the Minnesota Department of Health. The explorer shall notify the Planning Department on the day that drilling begins and allow State and County officials access to the drill site.

1. All test borings shall be constructed in accordance with Minnesota Department of Health Rules and shall be constructed in a manner as to prevent all known sources of contamination from entering the boring at any time.
  - a. Drilling mud additives shall be stored in clean containers and shall be free of material that may adversely affect the aquifer.
  - b. Water used for cooling parts of engines, air compressors or other equipment may not be returned into the boring.

- c. Drilling mud, cuttings and discharge water shall not be disposed of in a manner so as to create damage to public or private property.
- d. Exploratory borings encountering flowing artesian conditions should be constructed to prevent erosion of the aquifer or the overlying confining mantle.
- e. Any boring which encounters a karst feature shall be cased and grouted to prevent the introduction of surface water into the groundwater and to prevent the passage of water from one aquifer to another.
- f. In the case of an unexpected emergency, including but not limited to any act or condition that would affect the health, welfare and property of area residents, the explorer shall have the ability to cap the boring at anytime. In this instance the explorer shall immediately notify the Winona County Planning Department and proper State agencies of such an emergency. In case of such an emergency, all costs shall be borne by the explorer.
- g. No test hole shall be used as a water well unless a water sample is taken by the County, tested for nitrates, bacteria and radiation and approved by the Minnesota Department of Health. Expenses for all related tests shall be paid for by the explorer.

#### 9.11.4 Exploratory Boring Setbacks

The following setbacks shall be applicable to exploratory drilling sites:

1. Required setbacks from Road Center line:
  - a. One hundred thirty (130) feet for State Highways.
  - b. One hundred (100) feet for County and State Aid Roads.
  - c. Sixty-five (65) feet for Township Roads.
2. Two hundred (200) feet to adjoining property line.
3. Five hundred (500) feet to nearest occupied residence.
4. One hundred (100) feet to any overhead or underground electrical line.
5. One hundred and fifty (150) feet to any gas line.
6. One hundred and fifty (150) feet to a preparation or storage area of spray materials, commercial fertilizers or chemicals that may result in pollution of the soil or groundwater.
7. One hundred (100) feet from a below grade manure storage area if in conformance with the Minnesota Pollution Control Agency.
8. One hundred (100) feet from a buried sewer, septic tank, subsurface disposal field or privy.
9. Two hundred (200) feet from existing water wells.
10. Two hundred (200) feet from any lake, stream or river.

#### 9.11.5 Abandonment of Exploratory Borings

1. Abandonment of all exploratory borings shall be carried out in accordance with the following provisions:

- a. Abandonment, whether temporary or permanent, shall be undertaken immediately upon completion of drilling activities. When the test hole is to be abandoned, the Winona County Planning Department shall be notified so that the abandonment process may be inspected.
  - b. Within thirty (30) days of the completion of drilling or the drilling equipment leaving the site, whichever occurs first, an abandonment report shall be completed by the explorer, and filed with the Winona County Planning Department on forms provided by that office. The report shall include, but not be limited to, such things as water bearing formations encountered, method of construction used and method of abandonment. The abandonment report shall specify whether the boring is being temporary or permanently abandoned.
2. TEMPORARY ABANDONMENT: A boring which is temporarily abandoned shall be constructed to prevent the introduction of surface contaminants into the boring and to prevent passage of water from one aquifer to another.
- a. At the minimum, a temporary abandoned boring shall be cased from bedrock or from the bottom of the boring if the boring terminates in unconsolidated materials, to a point one (1) foot above the ground surface, or if in a floodplain, at least two (2) feet above the level of the highest flood of record. The casing shall be protected with an overlapping cap which will prevent any surface contamination from entering the boring.
  - b. Any boring which is temporarily abandoned shall be marked and protected with four (4) steel posts (schedule 40 pipe) of at least four (4) inch diameter at equal distance from each other, two (2) feet from the center of the casing. Such posts shall be installed to a minimum depth of three (3) feet into solid ground.
  - c. A boring shall not be temporarily abandoned for more than two (2) years.
3. PERMANENT ABANDONMENT:
- a. Whenever the explorer determines that a boring needs not remain open any longer, or whenever the explorer is about to lose the right to explore, the explorer shall permanently abandon the boring. The boring shall be filled with grout to prevent contaminating materials from entering the water bearing ground formations.
  - b. All materials, debris and obstructions that may interfere with sealing operations shall be removed from the boring.
  - c. All casing and screen may be salvaged except for casing that has been cemented in place.
  - d. The top of the hole shall be fitted with ten (10) feet of cement or concrete grout to within two (2) feet of the land surface. Casing remaining in the hole shall be cut off at least six (6) feet below the land surface. The remaining two (2) feet of the hole shall be filled with native topsoil.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

- e. When concrete or cement is used as a grout material, it shall be inserted in the boring through a grout pipe from the bottom of the boring upward to the surface under pressure.
- f. A permanently abandoned boring shall be filled and sealed using one (1) or more of the following substances in accordance with geological materials penetrated:
  - I. The section of a boring in unconsolidated deposits shall be filled with neat cement, concrete or heavy drilling fluid to provide a permeability no greater than the natural condition.
  - II. The section of a boring in a rock formation shall be filled with neat cement or concrete.
  - III. The section of a boring in a cavernous or crevice rock such as cavernous limestone or creviced granite shall be filled with concrete or neat cement and gravel or stone aggregate. At the top of cavernous or creviced formation, the filling shall be completed by a layer of neat cement or concrete extending at least ten (10) feet into the above overlying formation and finished as provided in those rules.
  - IV. When a temporarily abandoned boring is permanently abandoned, a separate abandonment report shall be filed.

### 9.12 Home Occupations

#### 9.12.1 General Information

All home occupations shall be required to meet the following minimum standards:

1. No mechanical or electric equipment shall be used which will interfere with TV, radio, or telecommunications reception or affect the health and safety of the residents of the area.
2. Sufficient off-street parking must be provided as required in Chapter 9.
3. In residential districts, home occupations cannot exceed one-third (1/3) of the main floor space of a dwelling or in an accessory building it cannot exceed the total square footage of the main floor of the dwelling, unless the use is for a Bed and Breakfast or a similar use approved through the Conditional Use Permit process.

#### 9.12.2 Permitted Uses

Home occupations meeting all of the following standards shall be a permitted use in the A/RC, UR, RR and CD Districts:

1. Home occupations employing not more than one (1) member other than members of the household on the premises.
2. Home occupations selling articles made on the premises.
3. Home occupations which involve only the selling of goods and services off the premises.
4. Home occupations with no outside storage of materials.



### 9.12.3 Conditional Uses

All home occupations not meeting the standards of 9.12.1 and 9.12.2 shall require a Conditional Use Permit.

### 9.13 Temporary Small Business

All temporary small businesses shall be required to meet the following minimum standards:

1. Said temporary small businesses shall employ no more than twelve (12) full time people on the premises or the equivalent of twelve (12) full time people exclusive of household members.
2. The owner of the property must reside on the property and be employed in the temporary small business.
3. The owner of the property and the owner of the temporary small business must be the same individual.
4. Said temporary small business may be reviewed every five (5) years.

### 9.14 Adult Entertainment

Adult entertainment facilities shall only be allowed in the Business And Recreational (B) and the General Industry (I) Districts as a permitted use provided they meet the following minimum standards:

1. Entertainment, Adult: Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, adult body painting studios, and other similar adult establishments, located at least one thousand (1,000) feet from:
  - a. Any existing residential zoning district.
  - b. Any areas designated for future residential development or any Urban Services Area Land Use Plan.
  - c. Any other adult establishment.
  - d. And provided the facility is located at least one thousand five hundred (1,500) feet from any church, school, public park or youth facility.  
For the purposes of this Chapter, such linear measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment business is located to the nearest property line of the premises of the facilities enumerated in Subsection (1) above.
2. Signs and Advertising Devices:
  - a. Adult establishments shall not publicly display any signs or advertisements, which include sexually oriented materials.
  - b. For the purpose of this Section, any materials are sexually-oriented if the material consists of representations or

descriptions of the following for purpose of sexual stimulation, gratification or perversion: actual or simulated masturbation, sodomy, excretory functions, exhibition of the genitals or female breasts, sadomasochistic abuse (for the purpose of sexual stimulation or gratification), bestiality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breasts of a female.

For the purpose of this Section, "public display" means if the sign, advertisement or other material is on or in a billboard, viewing screen, theater stage or marquee, newsstand, display rack or similar place so that it is easily visible from a public street, public road or sidewalk or from areas of public businesses in which minors are customary or occasional business invitees.

### 9.15 Soil Erosion & Sediment Control

The purpose of this Section is to minimize soil erosion and sedimentation, and excessive or accelerated soil erosion caused by activities of man including agricultural production, timber harvesting and the development of land. It establishes standards for practices to protect water and soil resources, and to prevent or minimize nonpoint source pollution.

#### 9.15.1 General Standards

1. No land occupier/landowner or other person may cause or conduct any activity on the land which causes accelerated soil erosion or sediment damage. Accelerated soil erosion means much more rapid than normal or geological erosion, and which is caused by activities of humans on the land.
2. Each land occupier, owner or developer, whether engaged in agricultural, timber harvesting, construction, or other land disturbing activity, shall work with the Winona County Soil and Water Conservation District in adopting "Best Management Practices" and a conservation plan to minimize soil erosion.
3. It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture to provide for adequate drainage and sediment control. Whenever possible, the property owner shall utilize the existing natural surface drainage. Whenever the available evidence indicates that the natural surface drainage is inadequate, the property owner shall provide the parcel with an adequate surface drainage system that is consistent and integrated with the drainage pattern of adjacent properties. On-site detention shall be required where necessary to prevent harm to adjoining properties.
4. No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties. All runoff shall be properly

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

treated subject to the review and approval of the Planning Director or designee and in accordance with storm drainage plans as may be established by the County.

### 9.15.2 Agricultural Standards

1. A land occupier of agricultural land shall be deemed to be in compliance with this Section if the following conditions exist:
  - a. The land does not have rills, gullies or other significant erosion; sediment deposits;
  - b. Farming methods do not create erosion or sediment problems on adjoining properties or to water resources; and
  - c. Land in the Shoreland District are meeting the standards outlined in Chapter 11.
2. Each farmer or land occupier not meeting the criteria of Section 9.15.2 (1) shall be required to work with the Winona County Soil and Water Conservation District in developing a conservation plan to minimize soil erosion. Some of the soil conservation practices which the land owner or occupier shall consider adopting is minimum or no tillage systems, strip-cropping, terracing, contour plowing, shelter-belts, etc.
3. Each farmer or land occupier shall also adopt programs to regulate excessive grazing to minimize erosion.

### 9.15.3 Timber Harvesting Standards

1. A timber harvester of land shall be deemed to be in compliance with this Section Ordinance if the following conditions exist:
  - a. The land occupier is using an approved soil conservation plan by the Soil and Water Conservation District.
  - b. Timber harvesting methods do not create erosion or sediment problems on adjoining properties or adjacent water resources.
  - c. Land in the Shoreland District are meeting the standards outlined in Chapter 11.
2. Each person or land occupier engaged in timber harvesting shall follow the BMPs found in Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Manager and be required to follow the standards and procedures found in Chapter 9: Access Drives and Access.
3. Forest conversion to another use, except for authorized public services such as roads and utilities, and residential development that conforms to the woodland conservation provisions in section 9.15.3 shall not be permitted.
4. Each person or land occupier engaged in timber harvesting not meeting the criteria set forth in Section 9.15.3 (1) and 9.15.3 (2) shall be required to work with the Winona County Soil and Water Conservation District and/or MN DNR Forestry in developing a conservation plan to minimize soil erosion.

5. All timber harvesting activities must not cause excessive soil erosion and shall conform to soil and erosion control standards set forth in chapter 9.

### 9.15.4 Development and Construction Standards

1. A land occupier or developer of land that is undertaking land disturbing activities that requires a development or land disturbance permit shall be deemed to be in compliance with this Ordinance if one (1) of the following conditions exist:
  - a. The land occupier has a development certificate and an erosion and sediment control plan approved by the Planning Director or a designee.
  - b. For construction sites disturbing one (1) acre or more, all requirements of the NPDES General Storm water Permit for Construction Activity (MN R100001) also called NPDES General Storm water Construction Permit Phase II regulations are being met as well as the additional requirements in this Ordinance.
2. Erosion and Sediment Control Plan: Activities that require an Erosion and Sediment Control Plan as part of the development or land disturbance permit must follow these standards and be included in the plan.
  - a. Site information requested as described in Chapter 5.
  - b. Location and type of all temporary and permanent erosion and sediment control BMPs along with procedures to be used to establish additional temporary BMPs as necessary.
  - c. Existing and final grades including dividing lines and direction of flow for all pre and post construction stormwater runoff drainage areas located within the site.
  - d. Location of all areas not to be disturbed and appropriate areas for infiltration.
  - e. Location of all temporary sediment basins, if used.
  - f. All waters, wetlands, karst and other significant geologic features within one half (0.5) mile of the construction site that have the potential to receive discharge from the site.
  - g. Address the potential for discharge of sediment and/or other potential pollutants from the site.
  - h. The plan should be developed by a professional engineer or other appropriately licensed or certified professional in erosion and sediment control.
  - i. The plan should indicate the knowledgeable person who will oversee the implementation of the Erosion and Sediment Control Plan and the installation, inspection and maintenance of BMPs during construction.
  - j. Erosion and Sediment Control Plans must be amended as necessary if there is a change in conditions or the plan implementation is determined to be ineffective in keeping sediment and other pollutants from entering adjacent properties or water bodies.

- k. If a NPDES General Storm water Construction Permit is required, a copy of the Stormwater Pollution Prevention Plan (SWPPP) can be submitted in lieu of a separate erosion and sediment control plan. This plan should also address the additional requirements and performance standards in this Section.
- 3. The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling, or exposure of soils.
  - a. General Standards:
    - I. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
    - II. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
    - III. Whenever possible, natural vegetation shall be retained and protected.
    - IV. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area.
    - V. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period shall be extended only if the Planning Director or designee is satisfied that adequate measures have been established and will remain in place.
    - VI. Stormwater drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flows, erosion damage, and construction costs.
  - b. Exposed Slopes: The following control measures shall be taken to control erosion during any activity where soils are exposed:
    - I. In order to maintain sheet flow and minimize rills and/or gullies, there shall be no unbroken slope length of greater than seventy-five (75) feet for slopes with a grade of no more than three to one (3:1).
    - II. Exposed slopes steeper in grade than ten (10) feet horizontal to one (1) foot vertical should be horizontal slope graded (cat tracking) to minimize direct runoff of water.
    - III. At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.

- IV. Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipator should be installed to prevent erosion at the discharge end.
- V. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- VI. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will effectively protect exposed slopes.
- VII. Temporary sediment control devices shall be removed from the disturbed site once vegetation has been reestablished.

Additional BMPs as described in the NPDES General Stormwater Construction Permit Appendix A C.1.a. and C.3 must be followed for projects where the discharge point(s) of the project are within two thousand (2,000) feet of a special water and flows to that special water.

In addition, the following BMPs shall also be followed:

- a. Silt fences shall be installed and removed following the guidance provided by the Planning Department and/or the Winona Soil and Water Conservation District (SWCD).
- b. To enhance the establishment of vegetation, compacted soil shall be tilled where possible to a depth of at least six (6) inches before re-vegetation.
- c. Exposed soil shall be minimized and mass grading should be avoided and sequencing promoted. At no time shall more than five (5) acres be exposed in areas of slopes less than twelve (12) percent. In steep slopes and Shoreland Districts, the amount of bare soils allowed at any time shall be restricted to the active construction site.
- d. Activities occurring on a site that is already disturbed due to existing land use e.g. a tilled agricultural site shall be seeded

with temporary or permanent cover if they are not to be disturbed as part of the proposed project and will no longer be used for the same land use.

- e. For soil stockpiles greater than one hundred (100) cubic yards the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or storm water inlet. Perimeter controls devices such as silt fences must be used for all stockpiles. If left for more than seven (7) days, the piles must be stabilized with mulch, vegetation, tarps or other means.
  - f. The retention of topsoil shall be encouraged. Topsoil must be removed from the areas of construction and stored separately. Upon completion of construction and/or site improvements, the topsoil must be redistributed on the site uniformly. All disturbed areas of the site shall be stabilized by seeding or planting.
4. **Temporary Sediment Basin:** Construction of temporary basins is encouraged especially when construction activities occur on steep slopes or highly erodible lands. If temporary sediment basins are constructed, they must follow the standards in the NPDES General Stormwater Construction Permit for temporary sediment basins. Where site restrictions do not allow temporary basins equivalent measures such as smaller basins, check dams, and vegetative buffers or combinations of measures should be utilized.
5. **Final Stabilization:** The site must be stabilized in accordance with the NPDES General Stormwater Construction Permit for final stabilization. The site will be considered having final stabilization upon notification to the Planning Department of completion, Planning Department inspection, and issuance of a Certificate of Compliance by the Planning Department.

#### 9.15.5 Preservation of Drainageways & Stormwater Management

The purpose of this Section of this Ordinance is to set forth the minimum requirements for managing stormwater to diminish threats to public health, safety, public and private property and natural resources by establishing performance standards.

1. **Existing Drainageways:** Existing drainageways shall not be filled, altered, or impeded so that water will cause erosion, drainage concerns, or flooding unless a plan is approved by Winona County SWCD and/or other applicable authority as to impoundments, stabilization and dissipation methods.
- a. **Design Standards:**
    - i. **Drainageway:**
      - 1. No fences or structures shall be constructed across the drainageway that will reduce or restrict the flow of water.
      - 2. The banks of the drainageway shall not exceed five (5) feet horizontal to one (1) foot vertical in gradient.

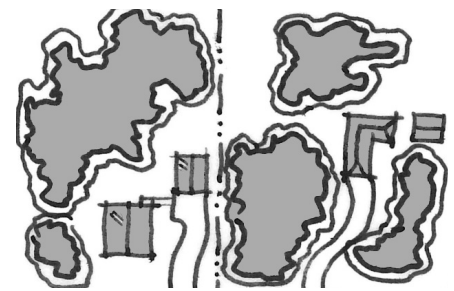


Figure 9.19 Woodland Preservation. Attempts to preserve as much of natural features of a site as possible.

3. The bed of the drainageway shall be protected with turf, sod, or perennial vegetation. If turf, sod, or perennial vegetation will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used). The rip rap shall be no smaller than two (2) inches square nor no larger than two (2) feet square.
- II. Water Velocity:
1. The flow velocity of water in drainageways shall be controlled to a velocity that will minimize erosion of the waterway.
  2. Flow velocity shall be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.
  3. Stormwater velocity to a drainageway must be minimized through a energy dissipation accepted method.
- III. Sediment Control:
1. To prevent sedimentation of drainageways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
  2. Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures may serve as temporary sediment control features during the construction stage of a development.
  3. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.
  4. Sediment control devices must be removed upon stabilization of soils at site.
- IV. Maintenance of Erosion Control System:
1. The erosion and velocity control structures shall be maintained in a condition that will insure continuous functioning according to the provisions of this Ordinance.
  2. Sediment basins shall be maintained as the need occurs to insure continuous desilting action by the property owner.
  3. The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.



2. Prior to the approval of any development, the developer shall make provision for continued maintenance of the erosion and sediment control system.
3. Stormwater Management Standards for Construction Activities:  
A land occupier or developer of land that is undertaking land disturbing activities that requires a Development Certificate or Land Disturbance Permit shall be deemed in compliance with this Section if permanent stormwater management practices are undertaken that control and manage runoff from the site such that:
  - a. The land occupier has a stormwater management plan approved by the Planning Director or a designee.
  - b. The annual runoff rates and volumes from post development site conditions mimic the annual runoff rates and volumes from pre-development site conditions.
  - c. Permanent stormwater management system follow the practices described in the NPDES General Stormwater Construction Permit Part III C.
  - d. For projects where the discharge point(s) of the project are within 2,000 feet of Special Waters and flow to that Special Water, additional BMPs described in the NPDES General Storm water Construction Permit Appendix A C.2,C. 4, and C.5 must be followed for projects
4. Stormwater Management Plan: Activities that require a Land Disturbance Permit require the creation of a Stormwater Management Plan. The plan will be a combination of narrative, plan and standard detail sheets. The plan must address the long-term management of stormwater from the site. The plan should be developed by a professional engineer, hydrologist, landscape architect or other appropriately licensed or certified professional in stormwater management. The plan should also indicate the persons and/or entities that will oversee the installation, inspection and long-term maintenance of any storm water management practices. If a NPDES General Storm water Construction Permit is required, a copy of the SWPPP can be submitted in lieu of a separate Stormwater Management Plan.
5. The Stormwater Management Plan site plan should include site information as required for a development certificate and should also indicate:
  - a. Location and engineered designs for structural stormwater management practices including stormwater treatment devices that remove oil and floatable materials.
  - b. Location for all nonstructural stormwater management practices including infiltration areas, buffer areas adjacent to streams, lakes and wetlands, and other areas not to be disturbed during construction.
  - c. If appropriate, hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed for the one (1)-year, two (2)-year, ten (10)-year, and one hundred (100)-year twenty-four (24)-hour precipitation events.
  - d. For discharges to Special Waters, a description of the methods used to control temperature from stormwater runoff.

### 9.16 Woodland Preservation

Natural features such as trees, streams, rivers, vistas, lakes, bluffs, and similar irreplaceable assets found on a site approved for residential development, shall be preserved through harmonious and careful design. The property owner or their authorized agent developing a site shall comply with all applicable provisions of the Winona County Zoning Ordinance, and incorporate whenever feasible BMPs to ensure the development conforms to the existing topography and reduces disturbances to natural vegetation and soil to minimize stormwater runoff.

### 9.17 Woodland Preservation Performance Standards

The following performance standards shall be applied when a proposed residential development will be occurring on woodland:

1. A plan showing the "limit of work" shall be submitted with the development certificate which will confine excavation, earth-moving procedures and other changes to the landscape.
2. All trees six (6) inches or more in caliper at a point four (4) feet in height above the ground shall not be removed unless they are within the right-of-way lines of a street or drive, within proposed building lines, or within utility locations or mandatory access for equipment. Retention of noteworthy plant material shall be encouraged where retention is practical.
3. Upon completion of construction activities the woodland within the area delineated as the limit of work, not including the footprint of the structure itself, shall be allowed to regenerate in order to minimize forestland conversion. At least fifty (50) percent of the forest canopy that was removed within the delineated limit of work area as a result of residential development shall be restored upon completion of construction activities.
4. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
5. The provisions listed above shall not prohibit the restoration or management of forests and natural communities, the removal of trees seriously damaged by storms or other acts of nature, or hinder measures taken to control tree species that are diseased or exotic.

### 9.18 Outdoor Wood Fired Burner

Outdoor wood fired burners shall have the following performance standards:

1. A Development Certificate is required for the placement of a outdoor wood fired burner in the allowable zoning districts;
2. Shall follow accessory structure setbacks established for the applicable zoning district;
3. Shall follow the requirements of the Local Fire Official Standards; and
4. Shall follow applicable State and Federal Smoke Emissions Standards.

## 9.19 Swimming Pools

Swimming Pools shall adhere to the Minnesota Pool Code. The Winona County Zoning Ordinance considers pools as accessory structures and subject to the requirements set forth in Section 6.11 for a Development Certificate.

## 9.20 Solar Energy Systems

Solar Energy Systems are a permitted accessory use in all zoning districts, subject to the following standards.

1. Height. Building or roof mounted Solar Energy Systems shall not exceed ten (10) feet above the highest portion of the building.
2. Location within Lot. Solar Energy Systems must meet the accessory structure setback for the zoning district.
  - a. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted Solar Energy Systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - b. Ground-mounted Solar Energy Systems. Ground-mounted Solar Energy Systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.
  - c. Large Ground-mounted Systems. In the A/RC Ground-mounted Solar Energy Systems that result in the creation of (1) one or more acres of impervious surface or are a commercial solar system must apply for a Conditional Use Permit.
3. Approved Solar Components. Electric Solar Energy System components must have an Underwriters Laboratory (UL) listing.
4. Compliance with State Electric Code. All Solar Energy Systems shall comply with the Minnesota State Electric Code.
5. Utility Notification. No grid-intertie Solar Energy System shall be installed until evidence has been given to the Planning Department that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement
6. No owner, occupier or person in control of property shall allow vegetation or structures to be placed or grow so as to cast a shadow on a Solar Energy System which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard Time on December 21 provided, however, this standard shall not apply to vegetation or structures which casts a shadow upon the Solar Energy System at the time of installation

of said Solar Energy System or to vegetation existing at the time of installation of said Solar Energy System.

- a. Violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because of such violation, so that performance of the system is impaired, may have in tort for damages sustained thereby and may have such nuisance abated.
7. As a means of evidencing existing conditions, the owner of a Solar Energy System may file notarized photographs of the affected area with the County prior to installation of said system.

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## CHAPTER 10: ZONING DISTRICTS

### 10.1 Zoning Districts

The zoning districts in this Ordinance are so designed as to assist in carrying out the Comprehensive Plan for Winona County.

For purposes of this Ordinance, Winona County is hereby divided into the following zoning districts:

### 10.2 Zoning Maps

Map Symbol	District Name
A/RC	Agricultural / Resource Conservation
RH	Rural Heritage
UR	Urban Residential
CD/CD2	Community Development
RR	Rural Residential
B	Business and Recreational
I	General Industry

The location and boundaries of the districts established by this Ordinance are set forth on the zoning map except the Shoreland District, which is established by definition, which is hereby incorporated as part of this Ordinance. A copy of the official Zoning Map shall be kept in the office of the Planning Department. It is the responsibility of the Planning Director to continually maintain and update this map. Any amendments to the Zoning Map shall be recorded on such map within thirty (30) days after the official adoption of the zoning amendment by the Winona County Board.

The Floodplain Districts are based on the data contained within the Flood Insurance Study for Winona County prepared by the Federal Emergency Management Agency dated July 18, 1983 and the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps therein dated January 18, 1984 as amended by the Letter of Map Revision issued by the Federal Emergency Management Agency on November 19, 2001 with an effective date of March 29, 2002, including all maps, tables and profiles attached thereto. The above noted Flood Insurance Study, Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Letter of Map Revision are hereby adopted by reference and attached to the Official Zoning Map.

The Official Zoning Map shall be identified by the signature of the Chairman of the County Board attested by the County Auditor/ Treasurer, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map of Winona County, Minnesota."

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under the provisions of this Ordinance.

### 10.3 District Boundaries

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

The boundaries of the Floodplain District shall be determined by scaling distances on the Official Map.

### 10.4 Agricultural / Resource Conservation District

#### 10.4.1 Purpose

The purpose of the Agricultural / Resource Conservation District is to protect the working agricultural landscape of Winona County as a means to ensure the continued viability of this resource as called for in the Comprehensive Plan. The District also recognizes the unique Blufflands of southeastern Minnesota where dense tree growth sustains commercial forestry, and numerous public lands afford residents and visitors alike with recreational opportunities. This Section establishes the policies and regulations ensuring the long-term stability and productivity of agriculture and the adjacent forests, and their supporting industries. Besides conserving the agricultural and forestry resources of Winona County, these policies and regulations stabilize increases in public expenditures for roads and their maintenance, emergency services, community facilities, and schools.

Since agricultural and natural resource lands management practices may not be compatible with non-agricultural and resource uses, development densities in the Agricultural / Resource Conservation District shall be limited to one (1) dwelling per forty (40) acres. The County Board must issue a Conditional Use Permit for the placement of one (1) dwelling on a lot less than forty (40) acres in the A/RC District, if not eligible for one of the listed exceptions in Section 10.4.2.

Owners, residents and other users of property in this zoning district or neighboring properties may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices

Highlights from the Winona County Comprehensive Plan:

Local decisions should:

- Reflect the importance of maintaining agricultural bestmanagementpractices
- Support maintaining and sustaining the vitality of family farms.

Goal: Preservation and promotion of agriculture as a viable land use activity throughout the County.

Implementation Strategies for Agricultural Areas

1. Complete a digital parcel map layer within the next five years.
2. Review the County's Zoning Ordinance and include additional agricultural zones that reflect the size of farms, production and location.
3. Consider the use of declaratory statements for non-farm dwellings.
4. Implement the sections of the Winona County Water Plan that relate to agricultural land practices and water management.
5. Review and strengthen the County's agricultural zoning classifications to further protect agricultural land and promote sustainable farming practices.

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

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

### 10.4.2 Minimum Lot Area

The minimum lot area for one (1) dwelling in the A/RC District is forty (40) contiguous acres under common ownership.

Exceptions:

- a. A parcel of land, either in the form of a platted lot or a metes and bounds plat, which has been recorded with the County Recorder's Office prior to 1970, which may not conform to the lot width, depth and area requirements listed in Section 10.4.7.
- b. The split of an existing residence and associated accessory structures for the purpose of farm consolidation if the subject residence existed prior to the enactment of the January 5, 1989 Zoning Ordinance, and the remaining parcel contains a minimum of twenty (20) contiguous acres.

Proposed dwellings on less than forty (40) acres and not meeting the listed exceptions shall require a Conditional Use Permit within the Agricultural / Resource Conservation District.

A proposal to create three (3) separate lots from the original tract or the creation of a lot or lots with a road or an easement access intended for dedication as a public thoroughfare requires the submission of a Preliminary Plat Application as well as the Conditional Use Application.

Division of land into lots larger than five (5) acres in area and containing at least three hundred (300) feet of public road frontage and width, which does not involve any new streets or easements of access shall be exempt from the requirements of the Subdivision Regulations pursuant to Chapter 15.

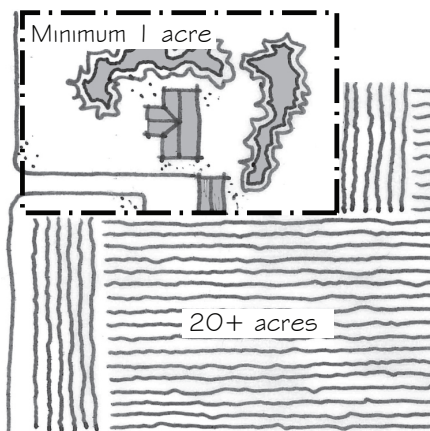


Figure 10.1 Proposed split of the residence from the remaining acreage.



### 10.4.3 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures, Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

### 10.4.4 Permitted Principal Uses

1. Additional dwelling provided the resident or residents of said dwelling either owns, operates, or is employed full time on said farm. Dwelling shall be placed upon parcel that work is being conducted and parcel shall consist of at least forty (40) contiguous acres exclusively used for agricultural use.
2. Advertising Devices which comply with Chapter 9.
3. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
4. Farm buildings.
5. Dwellings (frame or manufactured homes), and their accessory buildings located on a contiguous parcel consisting of forty (40) acres or more. Each new dwelling shall:
  - a. have no setback from feedlots with less than ten (10) animal units;
  - b. be five hundred (500) feet from feedlots with a capacity for ten (10) to fifty (50) animal units;
  - c. be one thousand (1000) feet from feedlots with a capacity for more than fifty (50) animal units.

The following are exempt from meeting the feedlot setbacks:

- I. The dwelling of the feedlot owner or operator, and
  - II. One manufactured home for the occupation by family members providing health care or need health care from one or more residents of the permitted dwellings associated with the feedlot, and for part-time farm help when established upon the land where the work is being performed.
6. Farm drainage systems, grade stabilization ponds and watershed structures and erosion control devices meeting all County, State and Federal minimum regulations.
  7. Farm production, consisting of the raising of crops and livestock.
  8. Historic sites and monuments, scenic lookouts and public recreation information centers.

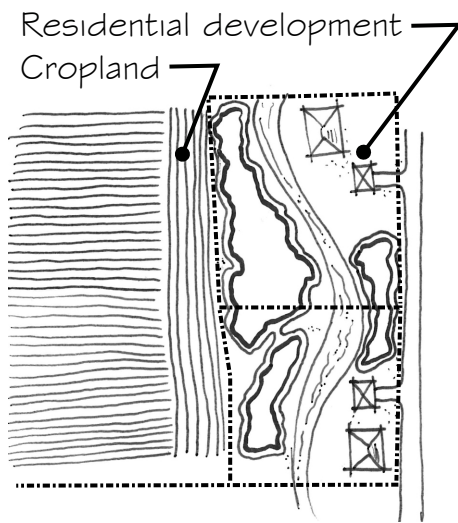


Figure 10.2 Through the Conditional Use process, residential development is encouraged to occur in areas not in cultivation, such as wooded remnants, and abandoned pastures. Siting recommendations and tree preservation standards protect the neighborhood's existing character. This example depicts the creation of new lots at a wooded site along the field margins.

\*10.4.7 revised by Winona County Board,  
November 5, 2013

9. Home occupations complying with the Standards of Chapter 9.
10. Land Disturbances.
11. Land treatment of petroleum-contaminated soils as defined in Minn. Rules 7037, subject to the following specific conditions:
  - a. The activity must be consistent in all respects with each and every one of the requirements and conditions as contained within Minn. Rules 7037, as it currently exists, and as from time to time amended;
  - b. All monitoring shall be conducted by an MPCA approved contractor; and
  - c. Each person maintaining such a permitted use that will involve the excavation of more than fifty (50) cubic yards, shall post an assurance bond for each individual land treatment site maintained to be in effect until the site meets all MPCA requirements, including Minn. Rules 7037.2700. The amount of the bond shall be set by the County Board, shall be graduated according to the volume of contaminated soil spread and shall be intended to compensate the County for monitoring and site-management costs should the operator fail to fully perform. The Board, upon application, can waive or reduce the bond required at the County Board's discretion based on the circumstances of each site and its operator.
12. Livestock feedlots having less than three hundred (300)-animal units and subject to the standards found in Chapter 8.
13. National, State and County parks and wildlife areas, game management and forest preserves.
14. Nurseries and tree farms.
15. Public administration and government buildings including police stations, fire halls and town halls.
16. Public campgrounds, canoe trails, snowmobile trails, scenic and nature trails or routes.
17. Railroad right-of-ways.
18. Recreational cabins and recreational vehicles complying with the Standards of Chapter 9.
19. Single family dwelling occupying a parcel consisting of a minimum of forty (40) contiguous acres under common ownership.
20. Temporary or seasonal roadside stands with adequate off street parking - not to exceed one (1) stand per farm.
21. The creation of a parcel containing a dwelling on less than forty (40) acres must acquire a Conditional Use Permit meeting the development standards for the A/RC District.
22. Timber Harvesting subject to standards found in Chapter 9.

#### 10.4.5 Accessory Uses

1. Any incidental machinery, structure or building necessary to the conduct of agricultural or timber harvesting operations or other permitted and conditional uses.
2. Micro WECS subject to standards in Chapter 12.

3. Non Commercial WECS subject to standards in Chapter 12.
4. Outdoor wood-fired Burner.
5. Recreational area, incidental.
6. Solar Energy System

**10.4.6 Conditional Uses**

1. A new animal feedlot or change in the operation of an animal feedlot which results in a feedlot having in excess of three hundred (300) animal units but not more than one thousand and five hundred (1,500) animal units.
2. Agriculture oriented businesses such as grain and feed sales, general repair and installation services, custom meat processing.
3. Airports.
4. Bed and Breakfast
5. Broadcasting towers: radio and television appurtenant structures.
6. Cellular Communication Towers and auxiliary equipment sheds.
7. Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education and living quarters.
8. Commercial grain storage and drying.
9. Commercial outdoor recreation areas that are similar to public recreation areas including private campgrounds.
10. Commercial sawmills and lumber processing and treatment plants.
11. Commercial WECS subject to standards in Chapter 12.
12. Convalescent, health, convention facilities and business existing at the time of the adoption of this Ordinance.
13. Demolition waste facilities.
14. Dog kennels.
15. Essential services located outside of public right-of-ways and power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
16. Extraction pits and mining operations
17. Festival and mass gathering events
18. Full-season recreation campgrounds.
19. Golf courses and/or associated restaurants.
20. Home occupations complying with the Standards of Chapter 9.
21. Horse boarding facility and riding clubs.
22. Land Disturbances exceeding one thousand (1,000) cubic yards.
23. Livestock sales barns and accessory facilities.
24. Meteorological Tower (WECS) subject to standards in Chapter 12.
25. Museums.
26. One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing health care from one or more residents of the permitted dwellings and for part-time farm help when established upon the land where the work is being performed.

\*10.4.6 revised by Winona County Board, November 19, 2013

<i>Table 10.1 Required Setback Distance</i>	
<b>From Road Center line</b>	<b>Road Class</b>
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

Table 10.2 Yard Regulations

Side Yard	20' min.
Rear Yard	50' min.

### Land Capability Classification

The land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. The Capability Classes are indicated by Roman Numerals and indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class I: soils have few limitations that restrict their use.

Class II: soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class III: soils have severe limitations that reduce the choice of plants or that require moderate conservation practices, or both.

Class IV: soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class V: soils are not likely to erode but have other limitations, impractical to remove, that limit their use.

Class VI: soils have severe limitations that make them unsuitable for cultivation.

Class VII: soils have very severe limitations that make them unsuitable for cultivation.

Class VIII: soils and miscellaneous area have limitations that nearly preclude their use for commercial crop production.

source: Soil Survey of Winona County, Minnesota.

27. Other uses similar to those listed as permitted and conditional uses.
28. Outdoor recreational facilities and outfitters.
29. Public Display Garden.
30. Public and private harbors and landings.
31. Public and Private schools.
32. Railroad staging yards including repair facilities and operation centers.
33. Regional pipelines, power transmission lines over thirty-five (35) KV relay, radio, television and commercial towers.
34. Salvage yards.
35. Sanitary landfills and solid waste and hazardous waste disposal facilities.
36. A. Single family dwelling on less than forty (40) contiguous acres and not subject to the exceptions listed in Chapter 5. Chapter 5 lists the approval criteria for the granting of a Conditional Use Permit to allow for a dwelling to be placed in less than forty (40) acres in the A/RC District.  
 B. One or more secondary dwellings on parcels of less than 40 acres in the A/RC Zoning District shall be exempt from the feedlot setback requirements for a non-feedlot owner/operator and entitled to the farm ownership/operator setback exemption as stated in Chapter 8.5.1, 2, a, on the condition that:
  - I. The dwelling is not sold within a 5 year period commencing at the issuance of the applicable conditional use permit, or:
  - II. The County waives the 5 year requirement stated above upon a showing of extenuating circumstances by the owner, including but not limited to financial hardship or other calamity.
37. Solar Energy Systems subject to standards in Chapter 9.
38. Subsurface Mineral Exploration borings.
39. Temporary housing for migratory or other farm workers.
40. Temporary small businesses
41. Wine Tasting Facility.

### 10.4.7 Performance Standards

1. HEIGHT REGULATIONS.
  - a. In the A/RC District, agricultural structures and legally approved conditional uses are exempt from the height limitation of thirty five (35) feet. Residences either established as a permitted use or through a Conditional Use Permit are limited to a maximum height of thirty five (35) feet.
  - b. Structures not enumerated in (1) shall not exceed a height of thirty-five (35) feet.
2. FRONT YARD REGULATIONS.
  - a. Required Setback Distance: See Table 10.1.

- b. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
- 3. SIDE YARD REGULATIONS: See Table 10.2.
  - a. There shall be a minimum side yard of twenty (20) feet on each side of the building.
- 4. REAR YARD REGULATIONS: See Table 10.2.
  - a. For non-agricultural buildings, there shall be a minimum rear yard of fifty (50) feet.
- 5. LOT ACCESS REGULATIONS:
  - a. Access to a parcel for development of a dwelling may be gained by the road/street that is being used to meet road frontage requirements or by an easement of at least thirty three (33) feet in width. The driveway shall adhere to the standards described in Chapter 9.7. If an easement is used in lieu of road frontage access, the Planning Department requires the submission of the access easement for review prior to recording with the Winona County Recorder's office to assure perpetual access and adequate ownership and maintenance provisions. The Planning Department will not issue the Development Certificate for any of the respective improvements on the subject property until the recording of the access easement has been completed.
- 6. SOIL TYPES: Parcels of land to contain dwelling(s) shall consist of Class IV through Class VIII soils as identified in the Soil Survey of Winona County as a means to prevent the disturbance to prime soils. An applicant may also develop a site if the percentage of Class I through Class III soils compose less than forty (40) percent of the entire parcel.
 

Exceptions:

  - a. An existing dwelling may be replaced with a new dwelling within three hundred (300) feet of the previous building site.
  - b. Additional dwellings intended for farm use permitted pursuant to Chapter 10.4.4.1 and valid conditional use permits issued pursuant to Chapter 10.4.6.26 are allowed, provided they are to be located within three hundred (300) feet of existing farmstead or homestead buildings on the parcel in question.
- 7. GENERAL REGULATIONS: Additional requirements for site development are located in relevant chapters.

10.4.8 Performance Standards - Agricultural Preservation Program

- 1. Landowners, farm or timber, in making application for exclusive agricultural use zone designation, must verify in writing compliance with one (1) of the following two (2) conditions:
  - a. Farmland must be in production for the intended purpose of growing a cash crop and/or in support of livestock, inclusive, but not limited to, dairy cows, hogs, beef cattle and poultry,



Figure 10.3 Application items for Agricultural Preservation Program

\*10.5.1 revised by Winona County Board, November 5, 2013

or land used exclusively for animal feedlots where crop production is not germane to the operation:

- I. Farmland identified in the application must lie in the Agricultural Resource Lands District.
  - II. Each application must include a soil conservation plan, developed with the assistance of the local NRCS (Natural Resource Conservation Service) office, outlining the methods to be utilized to prevent soil erosion.
- b. Timberland must contain fifty (50) percent or more of growing tree stands. However, land with less than fifty (50) percent forestation can qualify if the landowner agrees to plant the deficit acreage with tree seedlings:
- I. Timberland identified in the application must lie in the Agricultural Resources District.
  - II. Each application must include a soil conservation plan developed with the assistance of the local NRCS (Natural Resource Conservation Service) office outlining the methods to be utilized to prevent soil erosion.
  - III. Each application must include a Forest Management Plan. The Plan must be prepared by a competent public or private land forester.
2. Land owners, by making application, agree that sound soil conservation practices will be utilized in their exclusive use zones. Requirements under Minnesota Statute 40A.13, "Soil Conservation Practices", apply.

### 10.4.9 Application - Agricultural Preservation Program

1. A person having title to land contained within a Winona County Agricultural/Natural Resource District may apply for designation as an exclusive agricultural use zone, as outlined in Minnesota Statute 40A.
2. Applications should be delivered to the Winona County Planning Department forms provided by Minnesota's Commissioner of Agriculture, and contain at least, but not limited to, the following information:
  - a. Legal description of the area to be designated including parcel identification numbers, when available.
  - b. Name and address of the owner(s).
  - c. A witnessed signature of the owner stating that the land be kept exclusive agricultural and will be used in accordance with the provisions of Chapter 40A, applicable at the date of application.
  - d. A statement that the restrictive covenant will be binding on the owner or the owner's successor or assignee and will run with the land.
  - e. In the case of enrolled property, the owner shall submit the owner's duplicate certificate of title along with the application.

3. All applications are subject to review by Winona County and by the Winona County Soil and Water Conservation District in all matters regarding application requirements. Either body may impose additional requirements, when conditions warrant.
4. Exclusive use zones will commence for purposes of benefits and restrictions thirty (30) days from the date the County approves an application.
5. The Planning Department imposes an application fee on each exclusive agricultural preservation application. The fee will be set by County resolution, however, the fee will not exceed the limitation imposed by Minnesota Statutes Chapter 40A.10.
6. In order for a parcel to be eligible for the Agricultural Preservation Program a minimum of thirty five (35) acres is required. Existing enrolled acreages, which propose a split of less than thirty five (35) acres must terminate said acreage from program by submitting a Partial Termination from the Planning Department.

## 10.5 Rural Heritage District (RH)

### 10.5.1 Purpose

The Rural Heritage District recognizes the existence of single-family residences and their accessory structures on rural properties prior to the adoption of this Ordinance. The Rural Heritage District respects the rights of property owners to expand and modify their residences and enjoy their lands. The Rural Heritage District is similar to the previous Agricultural / Natural Resource District since the residences occupying the District adhered to the A/NR standards when constructed. The application of the bluff / slope standards found in Chapter 11 of this Ordinance do not render existing residences and their accessory structures as nonconformities. The properties are also subject to the development standards found in this Section.

Any established use or structure legally established prior to the adoption of this Ordinance, is subject to the following:

- a. Expansion of existing structures and uses, legally established before March 15, 2011 in the Residential or Agricultural Zoning Districts under this provision must comply with the district requirements but shall not be less than the following provisions consistent with Winona County Zoning ordinance of August 1, 1970.
  - I. Building Height (maximum)
    1. 30 feet (no requirement for Ag buildings)
  - II. % of lot coverage (impervious):
    1. N/A in the A/RC and RH District
    2. 70% in the UR and RR District
- b. A/RC and RH District setbacks:
  - I. Front:
    1. 200 feet to a principal arterial
    2. 130 feet to a minor arterial or major collector

3. 100 feet to a minor collector
4. 65 feet to a local road
- II. Rear
  1. 40 feet
- III. Side
  1. 10 feet
- IV. Shoreline
  1. Current Code requirements
- c. UR and RR District Setbacks:
  - I. Front:
    1. 115 feet to a principal arterial
    2. 60 feet to a minor arterial or major collector
    3. 50 feet to a minor collector, Right of Way Line for a local road
  - II. Rear:
    1. 5 feet
  - III. Side:
    1. 8 feet
  - IV. Shoreline:
    1. Current Code requirements
- d. This provision does not exempt existing structures or uses established before March 15, 2011 from floodplain or to other state or federally required setbacks or area standards.
- e. See section 3.2.4, I. Regarding the elimination of non-conformities damaged by calamity.
- f. For the purpose of this section, the following definitions shall apply:
  - I. Existing Uses: See Chapter 4 definition "Use"
  - II. Existing Structure: See Chapter 4 definition "Structure"
  - III. Existing Buildings: See Chapter 4 definition "Building"
- g. Existing uses may be expanded within 300 feet of any existing building under this provision, provided the expansion complies with the area standards and setbacks specified in this section of the RH District.
- h. The geographic extent of the RH District shall be the jurisdictional limits of Winona County, except for those areas governed by a local zoning ordinance.
- i. This provision exempts expansions within the 300 foot area stated in (g) above from the feedlot performance standard setbacks in Chapter 8.5.1 and the soil types performance requirements of underlying zoning districts, but shall not exempt expansions from any other provision of Chapters 8 and 9.

### 10.5.2 Site Design Criteria

In an attempt to retain special landscape features such as natural, stream crossing, unique geologic elements, or distinctive structures, Winona County promotes innovative and flexible site design.



Expansions and modifications of existing residences in the Rural Heritage District should relate harmoniously to the surrounding natural features as a means to reduce the impact of noise and light on adjacent properties.

10.5.3 Permitted Principal Uses

1. Farm buildings, and the production of agricultural commodities including the raising of crops and livestock.
2. Farm drainage systems, grade stabilization ponds and watershed and erosion control devices meeting all County, State, and Federal minimum regulations.
3. Home Occupations complying with the standards of Chapter 9.
4. Land disturbances.
5. Livestock feedlots having less than three hundred (300)-animal units and subject to the standards found in Chapter 8.
6. Nurseries and tree farms.
7. Recreational cabins and recreational vehicles complying with the standards of Chapter 9.
8. Single-family residences established prior to the adoption of this Ordinance.
9. Timber harvesting subject to standards found in Chapter 9.

10.5.4 Accessory Uses

1. Any incidental machinery, structure or building necessary to conduct agricultural or timber harvesting operations or permitted and conditional uses.
2. Dwellings and their accessory buildings shall be located at least one thousand (1,000) feet from an existing feedlot, except:
  - a. The dwelling of the feedlot owner or operator, and
  - b. One manufactured home for the occupation by family members providing health care or need health care from one or more residents of the permitted dwellings associated with the feedlot, and for part-time farm help when established upon the land where the work is being performed.
3. Micro WECS subject to standards in Chapter 12.
4. Non Commercial WECS subject to standards in Chapter 12.
5. Outdoor wood-fired burner.

10.5.5 Conditional Uses

1. A new animal feedlot or change of an animal feedlot which results in a feedlot having in excess of 300-animal units but not more than one thousand and five hundred (1,500) animal units.
2. Agriculture oriented businesses such as grain and feed sales, general repair and installation services, custom meat processing.
3. Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education and living quarters.
4. Commercial grain storage and drying.

Table 10.1 Required Setback Distance

From Road Center line	Road Class
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

Table 10.2 Yard Regulations

Side Yard	20' min.
Rear Yard	50' min.

5. Commercial sawmills and lumber processing and treatment plants.
  6. Commercial WECS subject to standards in Chapter 12.
  7. Convalescent, health, convention facilities and business existing at the adoption of this Ordinance.
  8. Dog kennels.
  9. Home occupations complying with standards of Chapter 9.
  10. Horse boarding facility and riding clubs.
  11. Land Disturbances exceeding one thousand (1,000) cubic yards.
  12. Livestock sales barns and accessory facilities.
  13. Metrological Tower (WECS) subject to standards in Chapter 12.
  14. Museums.
  15. One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing care from one or more residents of the permitted dwellings and for part-time farm help when established upon the land where the work is being performed.
  16. Other uses similar to those listed as permitted and conditional uses.
  17. Public and private harbors and landings.
  18. Single-family dwellings and their accessory structures established prior to the adoption of this Ordinance.
  19. Temporary small businesses subject to the following conditions:
  20. Wine Tasting Facility.
- ### 10.5.6 Performance Standards

1. HEIGHT REGULATIONS.
  - a. In the A/RC District, agricultural structures and legally approved conditional uses are exempt from the height limitation of thirty five (35) feet. Residences either established as a permitted use or through a Conditional Use Permit are limited to a maximum height of thirty five (35) feet.
  - b. Structures not enumerated in (1) shall not exceed a height of thirty-five (35) feet.
2. FRONT YARD REGULATIONS.
  - a. Required Setback Distance: See Table 10.1.
  - b. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
3. SIDE YARD REGULATIONS: See Table 10.2.
  - a. There shall be a minimum side yard of twenty (20) feet on each side of the building.
4. REAR YARD REGULATIONS: See Table 10.2.
  - a. For non-agricultural buildings, there shall be a minimum rear yard of fifty (50) feet.
5. GENERAL REGULATIONS: Additional requirements for parking, signs, sanitary sewage systems and other standards are set forth in Chapter 9.
6. DESIGN REQUIREMENTS:

- a. An expansion or a modification of a structure may occur through the issuance of a Development Certificate as long as the improvement is in the opposite direction of the bluff / slope setbacks.
- b. An expansion of a structure toward a bluff / slope setback or if the structure is entirely within these designated areas can only occur after a staff review to verify the project satisfies the following design requirements:
  - I. The submission of an erosion control plan for review by the County Engineer.
  - II. The submission of an inspection report documenting the conditions of the septic system.
  - III. The impervious surface coverage of the lot does not exceed 60-percent.
  - IV. There is no light spillage onto adjacent properties or the public right-of-way.

### 10.5.7 Performance Standards and Application - Agricultural Preservation Program

The Agricultural Preservation Program is outlined/explained and regulated in section 10.4.8 and 10.4.9.

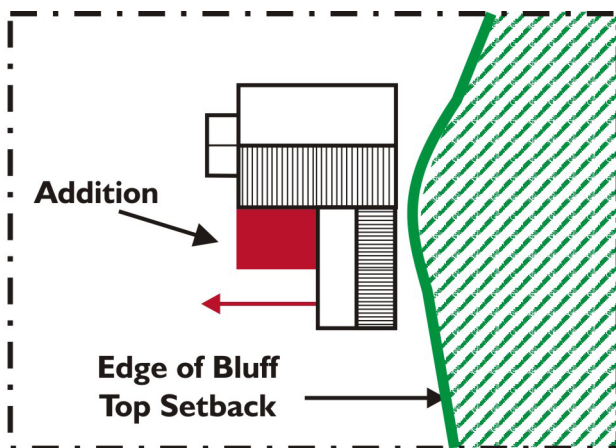


Figure 10.5a: Opposite direction of the bluff and/or Shoreland setbacks.

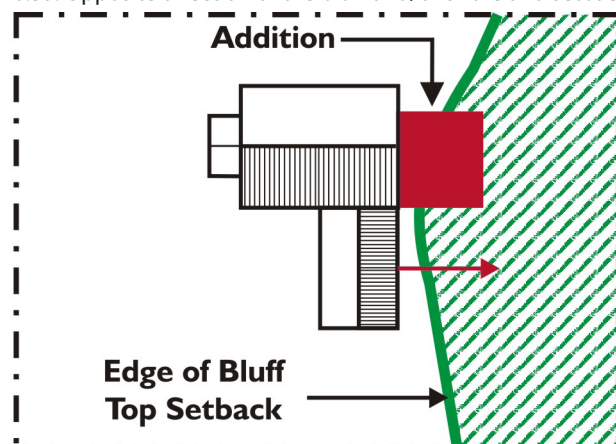


Figure 10.5b: Expansion of a structure with design requirements.

### 10.6 Urban Residential District (UR)

#### 10.6.1 Purpose

This District is intended to recognize and allow low-density residential development in unincorporated areas that have been developed or are surrounded by developed lands and are near a municipality.

The Comprehensive Plan lists the following five (5) Implementation Strategies for Urban Expansion Areas:

7. Develop PUD criteria for the urban expansion area that require central sewer and water, orderly annexation agreements, open space, cluster development and accordance with major street and highway plans.
8. Develop zoning and subdivision regulations for urban expansion areas that are consistent between the cities and the County. A transitional zoning district around the larger cities such as Winona and St. Charles would help recognize that these cities will be expanding outward in the future to accommodate project growth. A transitional zone would place landowners on notice that this area is subject to future growth and annexation, thereby minimizing major agricultural investments that could not be recouped. Such a zone could minimize urban/rural conflicts by regulating intensive agriculture, such as feedlots, from locating in these areas.
9. Develop major street and highway plans for the urban expansion areas that are consistent with cities, County and regional transportation objectives.
10. Develop open space plans for the urban expansion areas that are consistent between the cities and County.
11. Modify subdivision ordinances to provide for re-subdividing land into smaller lots and securing additional right-of-way and land dedication for utilities and other public infrastructure.

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

#### 10.6.2 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and

efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

10.6.3 Permitted Uses

1. Advertising Devices which comply with Chapter 9.
2. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
3. Existing agricultural uses.
4. Parks and natural recreation areas.
5. Public administrative and government buildings and structures, including police stations, fire halls and town halls.
6. Single-family dwellings.

10.6.4 Accessory Uses

1. Living quarters of persons employed on the premises when a primary use is allowed through a Conditional Use Permit.
2. Micro WECS subject to standards in Chapter 12.
3. Private garages.
4. Solar Energy System
5. Uses customarily accessory or incidental to the uses listed in 10.6.3 and 10.6.5.

10.6.5 Conditional Uses

1. Bed and Breakfast
2. Cellular communication tower and accessory equipment buildings and sheds.
3. Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education and living quarters.
4. Cluster developments.
5. Commercial outdoor recreational activities.
6. Essential services located outside of public right-of-ways and power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
7. Non Commercial WECS subject to standards in Chapter 12.
8. Duplexes.
9. Home occupations complying with the standards of Chapter 9.
10. Land disturbance activity of one thousand (1,000) cubic yards or more of material.
11. Metrological Tower (WECS) subject to standards in Chapter 12.
12. Mining and extraction pit(s).
13. Mobile/manufactured home parks.
14. One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing health care from one or more residents of the permitted dwellings and for part-time farm help when established upon land used as a farm.

*Table 10.5 Required Setback Distance*

From Road Center line	Road Class
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

*Table 10.6 Yard Regulations*

Side Yard	8' min.
Rear Yard	15' min.

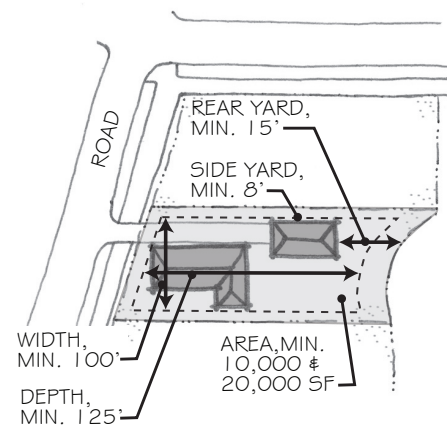


Figure 10.4 Lot area and dimension minimums.

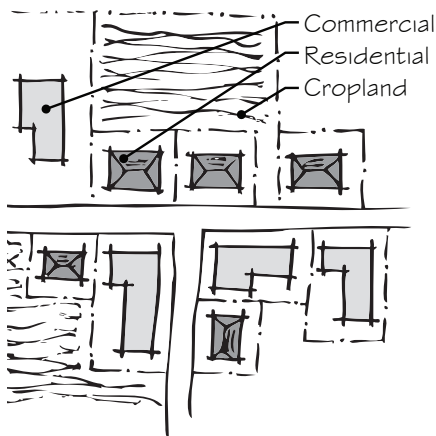


Figure 10.5 Diagram illustrating the mixed-use character of the CD District.

15. Public and private schools.
16. Regional pipelines, power transmission lines over thirty-five (35) KV relay, radio, television and commercial towers.
17. Residential health care facilities.
18. The raising, breeding or housing of animals which equals or exceeds two (2) animal units

### 10.6.6 Performance Standards

1. HEIGHT REGULATIONS: No building shall exceed a height of thirty-five (35) feet.
2. FRONT YARD REGULATIONS
  - a. Required setback distance: See Table 10.5.
  - b. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
3. SIDE YARD REGULATIONS: There shall be a side yard width of not less than eight (8) feet on each side of the building. See Table 10.6.
4. REAR YARD REGULATIONS: There shall be a rear yard of not less than fifteen (15) feet. See Table 10.6.
5. LOT AREA REGULATIONS: The minimum lot size shall be:
  - a. Twenty thousand (20,000) square feet for lots with individual sewer and water; and
  - b. Ten thousand (10,000) square feet for lots with a community water supply system and a community sewer system.
6. LOT WIDTH AND DEPTH REGULATIONS: Every lot or plat shall have a minimum width of not less than one hundred (100) feet abutting a public right-of-way and a minimum depth of not less than one hundred twenty-five (125) feet.
7. IMPERVIOUS SURFACE COVERAGE: Impervious surface coverage of a lot must not exceed twenty five percent (25) of the total lot area.
8. GENERAL REGULATIONS: Additional requirements for site development are located in relevant chapters.

## 10.7 Community Development District (CD)

### 10.7.1 Purpose

The purpose of this District is to allow a continuation and limited expansion of existing land uses in the unincorporated communities throughout the County. Most of these communities were platted and developed some time ago and include a mixture of land uses. Thus, this District has been designed for maximum flexibility within standards related to public health and safety.

The Comprehensive Plan lists the following three (3) Implementation Strategies for Rural Development:

1. Continue to require that two (2) or more lots under single ownership be combined to meet the minimum lot size and sanitary

sewer provisions of the Zoning Ordinance. This can eliminate or minimize potential pollution problems.

2. Continue to use mixed-use planned development districts for these rural communities to recognize the existing development in these areas.
3. Develop an interchange zoning district for freeway interchanges.

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

#### 10.7.2 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

#### 10.7.3 Permitted Uses

1. Advertising Devices which comply with Chapter 9.
2. Convalescent homes.
3. Duplexes.
4. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
5. Parks and open space.
6. Public administration and government buildings including police stations, fire halls and town halls.
7. Public and private schools.
8. Single family residential.

#### 10.7.4 Accessory Uses

1. Garages, parking facilities and any incidental structures or buildings necessary for the permitted and conditional use.
2. Living quarters of persons employed on the premises when a primary use is allowed through a Conditional Use Permit.
3. Micro WECS subject to standards in Chapter 12.
4. Outdoor wood-fired burner.
5. Solar Energy System

#### 10.7.5 Conditional Uses

1. Bed and Breakfast
2. Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education and living quarters.
3. Cluster developments.
4. Commercial uses including the following:
  - a. Retail trade.
  - b. Commercial recreation including bowling alleys.
  - c. Offices.
  - d. Hotel and motel.
  - e. Other similar commercial uses.
  - f. Restaurants, cafes and supper clubs.
  - g. On and off sale liquor establishments.
  - h. Wholesale trade.
  - i. Automobile service stations and commercial garages established after the effective date of this Ordinance shall meet the following standards:
    - I. The minimum lot size shall be fifteen thousand (15,000) square feet.
    - II. Gasoline service stations shall have five hundred (500) square feet of lot area for each additional pump over four (4) and one thousand (1,000) square feet of lot area for each additional vehicle storage space.
    - III. Commercial garages shall have 1,000 square feet of lot area for each additional service bay over two. There shall also be three hundred (300) square feet of additional land area for each space intended for storage of disabled vehicles awaiting repair.
    - IV. The minimum lot width shall be one hundred and fifty (150) feet.
    - V. All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed structure.
    - VI. Fuel pumps shall be at least fifteen (15) feet from any street right-of-way and any canopies shall be at least twelve (12) feet in height and no more than twenty-five (25) percent of the required front and side yard is covered by the canopy.
    - VII. There shall be no outdoor storage of discarded auto parts.
    - VIII. Except for vehicles in the process of being serviced, vehicles of employees, service and tow trucks owned by the establishment, and rental vehicles, no vehicles shall be parked on the premises. Vehicles awaiting repair shall not be stored outside for more than seven (7) days. No vehicles may be parked or stored on any public right-of-way.
    - IX. Permanently disabled vehicles, which are not awaiting repair, may not be stored on the premises at any time.
    - X. Principal access shall be from an arterial or collector street.



- XI. Parking areas, vehicle stacking spaces, buffer yards, and signs shall meet applicable sections of this Ordinance.
  - XII. Parking of rental trucks or trailers shall be permitted, as an accessory use as long as not more than five (5) vehicles of any one (1) type or more than ten (10) vehicles altogether shall be stored on the premises.
5. Convenience stores providing the following products or services and must comply with the following standards:
    - a. The convenience store may have accessory retail sales of nonalcoholic beverages, packaged foods, fast food, tobacco, lottery tickets, and similar convenience goods.
    - b. Convenience store canopies shall meet all minimum setback requirements for the Community Development (CD) District and be designed with recessed lighting.
  6. Essential services located outside of public right-of-ways and power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
  7. Funeral home.
  8. Home occupations complying with the standards of Chapter 9.
  9. Land disturbing activity involving one thousand (1,000) cubic yards or more of material.
  10. Limited industrial uses including the following:
    - a. Grain elevators.
    - b. Limited manufacturing.
    - c. Transportation and freight terminals.
    - d. Road salt storage and loading facilities.
  11. Manufactured Home Park
  12. Meteorological Tower (WECS) subject to standards in Chapter 12.
  13. Non Commercial WECS subject to standards in Chapter 12.
  14. One (1) manufactured home, in addition to other allowed dwellings, being that the occupant of said manufactured home is providing health care to or needing health care from one or more residents of the permitted dwellings.
  15. Subsurface Mineral Exploration borings.
  16. The raising or breeding of animals which equals or exceeds two (2) animal units.

10.7.6 Prohibited Uses

Any intense or heavy industrial or commercial use which would cause land use conflicts or lead to pollution problems or increase demand for urban services.

10.7.7 Performance Standards

1. HEIGHT REGULATIONS:
  - a. Residential - thirty-five (35) feet.
  - b. Commercial - thirty-five (35) feet.
  - c. Industrial - forty (40) feet.

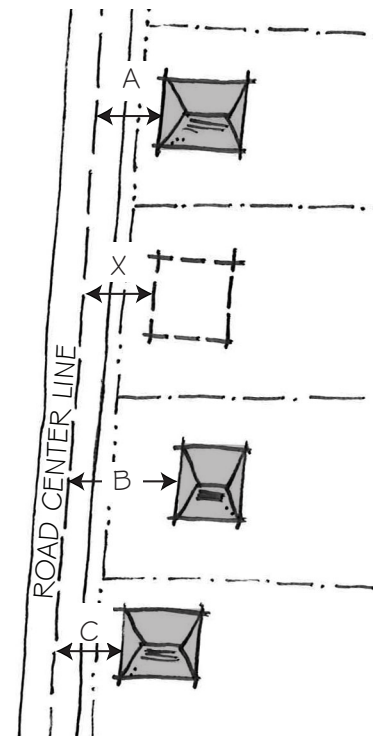


Figure 10.6 Average front yard setback sample calculation:  $A + B + C / 3 = X$ .

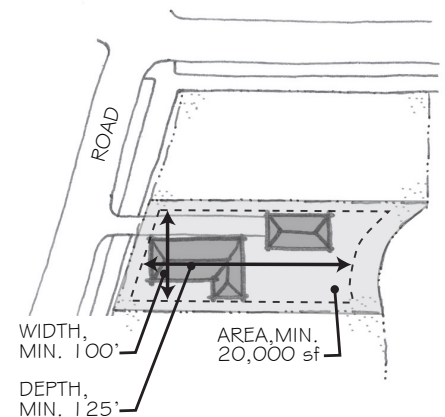


Figure 10.7 Lot area and dimension minimums.

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

# Chapter 10

Table 10.7 Required Setback Distance

From Road Center line	Road Class
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

Table 10.8 Performance Standards

	Land Use		
	Residential	Commercial	Industrial
Height	35'	35'	40'
Side Yard	10'	20'	20'
Rear Yard	30'	30'	40'
Lot Area	20,000 square feet		
Lot Width	100'		
Lot Depth	125'		

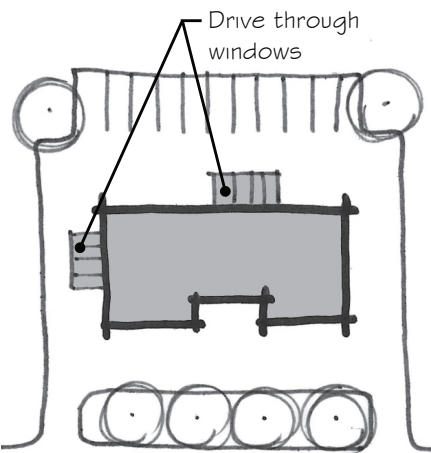


Figure 10.8 Locate drive through windows and car lanes on the sides and rear of buildings.

## 2. FRONT YARD REGULATIONS:

- a. Required Setback Distance: See Table 10.7, except;
  - I. In a block where two (2) or more dwellings have been erected gaining road frontage from the same roadway, the setback for a proposed dwelling shall be determined by the average front yard setback of the existing dwellings located within two hundred and fifty (250) feet on both sides of the parcel proposing a dwelling.
- b. Except that in a block where two (2) or more structures (commercial or residential) have been erected facing the same roadway, the setback for the proposed structure shall be determined by the average setback of existing structures located two hundred and fifty (250) feet on both sides of the parcel proposing a structure.
- c. Where a lot is located at the intersection of two (2) or more roads and highways, there shall be a front yard setback on each road or highway side of each corner lot.

## 3. SIDE YARD REGULATIONS: See Table 10.8.

- a. Residential - ten (10) feet.
- b. Commercial - twenty (20) feet.
- c. Industrial - twenty (20) feet.

## 4. REAR YARD REGULATIONS: See Table 10.8.

- a. Residential - thirty (30) feet.
- b. Commercial - thirty (30) feet.
- c. Industrial - forty (40) feet.

## 5. LOT AREA REGULATIONS: The minimum lot size shall be twenty thousand (20,000) square feet. The County Board may require larger lot sizes for residential dwellings based upon recommendations of the Planning Director to ensure the proper functioning of the private sewer system. The County Board shall also require the combining of adjacent, vacant lots under single ownership to meet the Minnesota requirements.

## 6. SCREENING AND FENCING: The County may require the screening and fencing of commercial and industrial uses to prevent visual blight, especially on side and rear yards which face residential and agricultural uses.

## 7. GENERAL REGULATIONS: Additional requirements for site development are located in relevant chapters.

## 8. EXTERIOR STORAGE/DISPLAY: All outside storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:

- a. Merchandise being displayed for sale in accordance with Chapter 9 Standards.
- b. Materials and equipment currently being used for construction on the premises.

9. EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT: The entire area of any business shall have an approved Land Disturbance permit and an approved Erosion and Sediment Control Plan and a Stormwater Management Plan prior to construction if the development meets the conditions described in Chapter 6.
10. LOT WIDTH AND DEPTH REGULATIONS: Every lot or plat shall have a minimum width of not less than one hundred (100) feet abutting a public right-of-way and a minimum depth of not less than one hundred and twenty-five (125) feet.

#### 10.7.8 Community Development District 2 (CD-2)

The CD-2 District is created to meet the particular needs of certain limited areas in the County. CD-2 is identical to CD district in all respects, except Conditional Uses is amended to simply allow "Transportation and freight terminals" as one of the conditional uses in the CD-2 district; the other conditional uses listed are not permitted conditional uses in the CD-2 district. All other features of the CD district apply fully within the CD-2 district. All other references elsewhere in the Zoning Ordinance to the CD district or to "all districts" or similar inclusive references are deemed to be applicable to and within the CD-2 district as well.

### 10.8 Rural Residential District (RR)

#### 10.8.1 Purpose

This District is created to allow low-density residential development in areas near a municipality that have been developed and are not suitable for agricultural or timber production and will not adversely impact agricultural or timber production or natural resource areas.

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

#### 10.8.2 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

## 10.8.3 Permitted Uses

1. Advertising devices which comply with Chapter 9.
2. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
3. Existing agricultural uses.
4. Home occupations as allowed by Chapter 9.
5. Land disturbances.
6. Parks and natural recreation areas.
7. Public, administrative and government buildings and structures, including police stations, fire halls and township halls.
8. Single family dwellings.

## 10.8.4 Accessory Uses

1. Living quarters of persons employed on the premises.
2. Micro WECS subject to standards in Chapter 12.
3. Outdoor wood-fired burner.
4. Private garages.
5. Solar Energy System.

## 10.8.5 Conditional Uses

1. Bed and Breakfast.
2. Cellular communication tower and accessory equipment buildings and sheds.
3. Churches, chapels, temples, synagogues, cemeteries, hermitages and monasteries with normal accessory buildings for education & living quarters.
4. Cluster developments.
5. Commercial outdoor recreational activities.
6. Duplexes.
7. Essential services located outside of public right-of-ways & power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
8. Extraction pits if incidental to a residential subdivision for which a final plat has been approved under the Subdivision Chapter.
9. Home occupations as allowed by Chapter 9.
10. Land disturbance activity exceeding one thousand (1,000) cubic yards or more of material.
11. Metrological Tower (WECS) subject to standards in Chapter 12.
12. Mobile/manufactured home parks.
13. Non Commercial WECS subject to standards in Chapter 12.

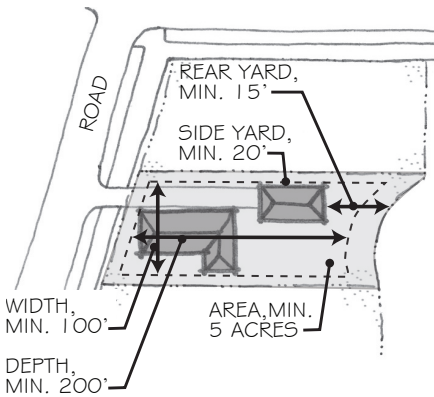


Figure 10.9 Lot area and dimension minimums

From Road Center line	Road Class
200 feet	Principal Arterial
60 feet	Minor Arterial
60 feet	Major Collector
50 feet	Minor Collector
At Right of Way Line	All other local roads

Side Yard	20' min.*
Rear Yard	15' min.*

\*50' min for lots abutting Residential or Agricultural District

14. One (1) manufactured home, in addition to other permitted dwellings, when the manufactured home is occupied by family members providing health care to or needing health care from one or more residents of the permitted dwellings and for part-time farm help when established upon land used as a farm.
15. Public and private schools.
16. Regional pipelines, power transmission lines over thirty-five (35) KV relay, radio, television and commercial towers.
17. Residential health care facilities.
18. The raising, breeding or housing of animals which equals or exceeds two (2) animal units.

#### 10.8.6 Performance Standards

1. HEIGHT REGULATIONS: No building shall exceed a height of thirty-five (35) feet.
2. FRONT YARD REGULATIONS:
  - a. Required setback distance: See Table 10.9.
  - b. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
3. SIDE YARD REGULATIONS: There shall be a side yard width of not less than twenty (20) feet on each side of the building. See Table 10.10.
4. REAR YARD REGULATIONS: There shall be a rear yard of not less than fifteen (15) feet. See Table 10.10.
5. LOT AREA REGULATIONS: The minimum lot size shall be five (5) acres.
6. LOT WIDTH AND DEPTH REGULATIONS: Every lot or plat shall have a minimum width of not less than one hundred (100) feet abutting a public right-of-way and a minimum depth of not less than two hundred (200) feet.
7. GENERAL REGULATIONS: Additional requirements for site development are located in relevant chapters.

### 10.9 Business and Recreational District (B)

#### 10.9.1 Purposes

The intended purpose of this District is to provide a wide range of goods and services, commercial and recreational, for local residents and the traveling public.

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

#### 10.9.2 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

### 10.9.3 Permitted Principal Uses

1. Advertising Devices which comply with Chapter 9.
2. Agricultural business and farm implement dealers.
3. Bait Shops.
4. Bowling alleys, billiard and pool halls.
5. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
6. Golf courses and clubhouses.
7. Hotels and motels.
8. Indoor theaters.
9. Miniature golf course, par-three (3) golf courses or archery or golf driving ranges operated for commercial purposes.
10. Nurseries, garden stores and commercial greenhouses.
11. Pet and animal hospitals.
12. Professional offices.
13. Recreation campground (Commercial and Full-Season).
14. Restaurants, cafes and supper clubs.
15. Resort facilities including lodges, guest houses and cabins.
16. Riding academies and stables.
17. Ski areas and lodges.
18. Sporting good establishments, outfitters and suppliers.
19. Taverns and restaurants servicing a resort or recreation development.

### 10.9.4 Permitted Accessory Uses

1. Accessory uses customarily incidental to the permitted and conditional uses.
2. Micro WECS subject to standards in Chapter 12.
3. Nature trails, snowmobile and ski trails.
4. Outdoor wood-fired burner.
5. Solar Energy System.
6. Storage garages and rental good establishments.
7. Swimming pools, saunas and outdoor recreational equipment and structures.

### 10.9.5 Conditional Uses

1. Adult Establishments which comply with Chapter 9.
2. Auditoriums, coliseums or convention halls.
3. Automobile sales (new and/or used) must comply with the following standards:
  - a. For sites intended to sell, lease and/or display outdoors vehicles exceeding 8,000-pounds in gross weight, including, but not limited to, construction and farm equipment, semi-tractors and/or semi-trailers, large trucks, buses, or other heavy commercial must have a 500-foot separation nearest residence.
  - b. The permanent outdoor sales and display area shall be located on the same lot with a principal building having a minimum floor area of 10,000 square feet. The facility besides having floor area devoted as a showroom and sales and leasing offices may also include floor area devoted to accessory uses including repairs and servicing, car wash, detailing, and financial and other related services.
  - c. The outdoor sales and display areas must be paved and shall meet all yard requirements for the Business and Recreational (B) District as well as suitable screening of a minimum six feet in height towards all residential properties not directly opposite the main façade of the facility.
4. Auto service stations.
5. Car/Truck/Semi Washes (including accessory to service stations and convenience stores) must comply with the following standards:
  - a. An attendant shall be present on the site during hours of operation.
  - b. Hours of operation shall be limited to between 6:00 AM and 12:00 AM.
  - c. The facility operator(s) shall secure the wash bays overhead doors when the establishment is closed.
6. Banks and lending institutions.
7. Bed and Breakfast.
8. Bottling plants.
9. Cellular communications tower and accessory equipment buildings and sheds.
10. Drive-in establishments such as restaurants, financial services with drive-up windows, car washes, drive-up photo finishing, and other businesses with drive-up windows shall meet the following standards:
  - a. Principal access shall be from arterial or collector streets.
  - b. The establishments shall be located a minimum of five hundred (500) feet from an automobile service station, commercial garage, or another drive-in establishment located on the same side of the street, as measured by a line drawn along the right-of-way between the nearest property lines.
  - c. Parking areas, vehicle stacking spaces, bufferyards, and signs shall meet applicable sections of this Ordinance.

11. Essential services located outside of public right-of-ways and power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
12. Land disturbance activity exceeding one thousand (1,000) cubic yards or more of material.
13. Laundries and laundrettes; automatic and self-service.
14. Marinas, harbors and docking facilities.
15. Metrological Tower (WECS) subject to standards in Chapter 12.
16. Motels.
17. Non Commercial WECS subject to the Standards in Chapter 12.
18. Other highway business activity of the same general character as permitted uses.
19. Recreation equipment and vehicles, boat sales and servicing establishments.
20. Regional pipelines, power transmission lines over thirty-five (35) KV relay, radio, television and commercial towers.
21. Single-family dwellings for personnel directly connected with the ownership or operation of a resort or recreational facility.
22. Subsurface Mineral Exploration boring.
23. Taverns and restaurants.
24. The raising, breeding or housing of animals which equals or exceeds two (2) animal units.
25. Vehicle repair shop

### 10.9.6 Performance Standards

Highway businesses shall be located only adjacent to thoroughfares. Each development shall provide a service road between thoroughfares and the business establishments and the service road shall have access only to the thoroughfare. No service roads shall have direct access to local residential streets nor shall highway business oriented traffic be routed on or directed through local residential areas.

1. HEIGHT REGULATIONS: No building shall hereafter be erected or structurally altered to exceed forty (40) feet in height.
2. FRONT YARD REGULATIONS:
  - a. Required Setback Distance: See Table 10.11.
  - b. Where a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot.
3. SIDE YARD REGULATIONS: See Table 10.12.
  - a. There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.
  - b. No building shall be located within fifty (50) feet of any side lot line abutting a lot line in any Residential or Agricultural District.
4. REAR YARD REGULATIONS: See Table 10.12.
  - a. There shall be a minimum rear yard of thirty-five (35) feet.



- b. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residential or Agricultural District.
- 5. LOT AREA REGULATIONS: The minimum lot area shall be fifteen thousand (15,000) square feet.
- 6. LOT WIDTH AND DEPTH REGULATIONS: Every lot shall have a width of not less than one hundred and fifty (150) feet abutting a public right-of-way.
- 7. LOT COVERAGE: Not more than fifty (50) percent of the lot shall be occupied by buildings.
- 8. SCREENING AND FENCING: The County may require the screening or fencing of commercial or industrial uses to prevent visual blight, especially on side and rear yards which face residential or agricultural districts.
- 9. GENERAL REGULATIONS: Additional requirements for site development are located in relevant chapters.
- 10. EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT: The entire area of any business shall have an approved Land Disturbance Permit and an approved Erosion and Sediment Control Plan and a Stormwater Management Plan prior to construction if the development meets the conditions described in Chapter 6.
- 11. EXTERIOR STORAGE/DISPLAY: All outside storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
  - a. Merchandise being displayed for sale in accordance with Chapter 9.
  - b. Materials and equipment currently being used for construction on the premises.

### 10.10 General Industry District (I)

#### 10.10.1 Purpose

This District is intended to provide for general and highway oriented industries and industrial uses, agriculture, excavation and timber harvesting.

The Comprehensive Plan lists the following six (6) Implementation Strategies for Economic Development:

1. Continue to support and work with the Winona Joint Corporation Committee (WAJCC) or similar committees on economic development.
2. Develop and maintain relationships with the Minnesota Department of Trade and Economic Development to encourage economic growth and business diversification.
3. Where appropriate, utilize studies such as "A Comprehensive Study of Housing and Industrial Development in Winona County, Minnesota" prepared by Maxfield Research Inc. and Bonestroo, Rosene, Anderlink & Associates to identify needs and strategies.

From Road Center line	Road Class
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

Side Yard	30' min.*
Rear Yard	35' min.*

\*50' min. for lots abutting Residential or Agricultural District

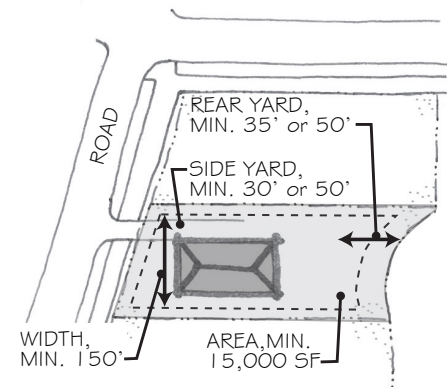


Figure 10.10 Lot area and minimum dimensions

4. Encourage agricultural related industry to locate in the County, especially where facilities already exist, e.g. Altura's vacant turkey processing plant.
5. Update the County's Zoning Ordinance to include regulations on adult oriented businesses that reduce secondary effects on the community, and community, and restricts location.
6. Develop economic development plans that are flexible enough to respond to change and enable communities to capitalize on opportunities. These plans should encourage the retention of young people in the County.

The Winona County Economic Development Authority Mission Statement: "The mission of the Winona County Economic Development Authority is to build a strong, diversified, and sustainable economy as a means to improve the quality of life of County residents. The EDA promotes the use of innovative strategies ensuring the sound stewardship of natural resources by entrepreneurs, businesses, agriculture, and rural communities."

Any established use or structure legally established prior to the adoption of this Ordinance, may be continued in like fashion and provided the use or structure is in compliance with Section 3.2.3 and 3.2.4.

### 10.10.2 Site Design Criteria

In an attempt to retain special landscape features such as natural vegetation, stream crossings, unique geologic elements, or distinctive structures Winona County promotes innovative and flexible site design. Whenever possible, property owners should place new residences and accessory structures in a manner that is in keeping with local traditions, and results in the least amount of substantial modifications to perennial vegetation, existing natural vegetation and topography. Property owners should also take advantage of existing driveways and access roads as a means to improve safety and efficiency of County thoroughfares, and as a means to maintain the rural character of Winona County.

### 10.10.3 Permitted Uses

1. Advertising Devices which comply with Chapter 9.
2. Auto repair garages.
3. Contractors and construction offices - no outdoor storage.
4. Dwelling units for security persons and their families located on the premises where they are employed.
5. Essential services located within public right-of-ways and services to supply individual sites excluding power transmission lines exceeding 35kV.
6. Freight handling facility - no outdoor storage.
7. Greenhouses and nurseries.

8. Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which is not stated as a conditional or prohibited use provided said industry can conform to prescribed performance standards.
9. Public administration and governmental buildings and utility structures including police and fire stations.
10. Warehousing, distribution and storage - no outdoor storage.
11. Wholesale establishments.

#### 10.10.4 Permitted Accessory Uses

1. Outdoor wood-fired burner.
2. Micro WECS subject to the Standards in Chapter 12.
3. Solar Energy System.

#### 10.10.5 Conditional Uses

1. Adult establishments which comply with Chapter 9.
2. The raising, breeding or housing of animals which equals or exceeds two (2) animal units.
3. Bottled gas dealers.
4. Cellular communications tower and accessory equipment buildings and sheds.
5. Commercial sawmills.
6. Commercial WECS subject to the Standards in Chapter 12.
7. Essential services located outside of public right-of-ways and power transmission lines up to 35kV. Services located outside of public right-of-ways must have a minimal twenty five (25) foot setback from the right-of-way.
8. Fertilizer manufacturing, compost or strong processing of garbage, offal, dead animals, refuse or rancid fats.
9. Fleet fueler facility with bulk fuel storage.
10. Any industry that creates excessive odor, noise or air pollution.
11. Land disturbance exceeding one thousand (1,000) cubic yards or more of material.
12. Livestock feeding yards or slaughterhouses or processing plants.
13. Manufacturing facility dedicated to the production of fuels from biomaterial.
14. Manufacturing, refining or processing of chemicals.
15. Manufacture of water based coatings.
16. Metrological Tower (WECS) subject to standards in Chapter 12.
17. Non Commercial WECS subject to standards in Chapter 12.
18. Off site signs.
19. Outdoor storage, as an accessory use, including, but not limited to vehicles, boats, utility trailers, semi-tractors and/or semi-trailers, construction and farm equipment, large trucks, buses, temporary storage containers, dumpsters, machinery, equipment, building materials and supplies, goods or other material, provided it occupies no more than fifty (50) percent of the lot area of a site.

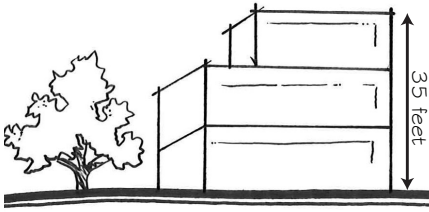


Figure 10.11 Industrial height regulations.

From Road Center line	Road Class
200 feet	Principal Arterial
130 feet	Minor Arterial
130 feet	Major Collector
100 feet	Minor Collector
65 feet	All other local roads

Yard Type	Requirement
Side Yard	20' min.*
Rear Yard	35' min.*

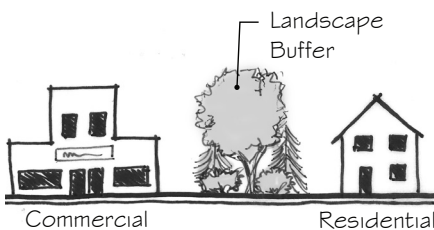


Figure 10.12 Landscape buffer between dissimilar uses.

20. Regional pipelines, power transmission lines exceeding thirty-five (35) KV relay, and broadcast towers.
21. Restaurants and cafes.
22. Retail trade.
23. Road salt storage and loading facilities.
24. Salvage yards.
25. Solid waste and hazardous waste disposal facilities.
26. Subsurface Mineral Exploration borings.
27. Truck stops meeting the following standards:
  - a. Truck stops shall provide at least on adequate sized stacking space at each island pump to minimize the need for waiting trucks to stack in the public right-of-way.
  - b. The truck stop may have accessory retail sales of beverages, packaged foods, fast food, tobacco, lottery tickets, and similar convenience goods for truck stop customers, and vehicle washes. The facility may also have accessory restaurants and showers. Facilities with accessory uses shall be required to meet the above stacking requirements for truck stops in addition to parking requirements for accessory retail and/or restaurant uses on the premises.

### 10.10.6 Performance Standards

1. HEIGHT REGULATIONS: No building shall hereafter be erected or structurally altered to exceed thirty-five (35) feet in height.
2. FRONT YARD REGULATIONS:
  - a. Required Setback Distance: See Table 10.13.
  - b. Where a lot is located at the intersection of two (2) or more roads or highways there shall be a front yard setback on each road or highway side of each corner lot.
3. SIDE YARD REGULATIONS: See Table 10.14.
  - a. There shall be a side yard having a width of not less than twenty (20) feet on each side of a building.
  - b. No building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residential or Agricultural District.
4. REAR YARD REGULATIONS: See Table 10.14.
  - a. There shall be a minimum rear yard of thirty-five (35) feet.
  - b. No building shall be located within fifty feet of any rear lot line abutting a lot in any Residential or Agricultural District.
5. LOT WIDTH REGULATIONS: Every lot shall have a width of two hundred feet (200) abutting a public right-of-way.
6. SCREENING AND FENCING: The County may require the screening or fencing of commercial or industrial uses to prevent visual blight, especially on side yards which face Residential or Agricultural Districts.

7. **SITE DESIGN CRITERIA AND RELATIONSHIPS TO ADJACENT PROPERTIES:** Developments in the General Industry District shall strive to coexist sensibly with adjacent properties by adhering to the following site design criteria as a means to promote a coordinated built environment.
- All developments in the General Industry District shall have direct vehicular access to and from an arterial or a major collector capable of supporting the average heaviest gross transport loads at any time of the year. Alleys and half-streets abutting an industrial use shall not be a means of ingress and egress for any freight or for any employees and the development shall not utilize them for loading and unloading berths, or maneuvering room.
  - Any developments in the General Industry District shall adhere to acceptable access management design principals to ensure the safe and efficient flow of traffic on and off the site.
  - All developments in the General Industry District shall have a forty (40)-foot wide green space area within the required front yard landscaped with a combination of shade and ornamental trees, shrubs, and grasses and ground cover as approved by the Planning Director.
  - Structures in the General Industry District shall avoid single, large dominant massing to a reasonable extent.
  - Facades in the General Industry District fronting arterials or major collectors shall have architectural interest and variety and avoid the effect of a single, long or massive wall by implementing a change in plane, a change in texture, or a material change every fifty feet in length, measured horizontally.
  - The County requires the screening, fencing, or the enclosing of storage, loading, and refuse areas of commercial or industrial uses with either an architecturally compatible enclosure or with landscaping/fencing.
  - An applicant of a development in the General Industry District shall submit a landscape plan for approval by the Planning Director illustrating planting designs for the required yards, green space, parking areas, and building foundations. The landscape plan should include the greatest amount of plant diversity to ensure variety and visual appeal.
8. **GENERAL REGULATIONS:** Additional requirements for site development are located in relevant chapters.
9. **EXTERIOR STORAGE/DISPLAY:** All outside storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
- Merchandise being displayed for sale in accordance with Chapter 9 Standards.
  - Materials and equipment currently being used for construction on the premises.

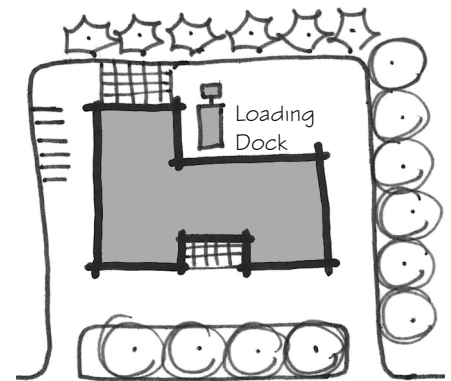
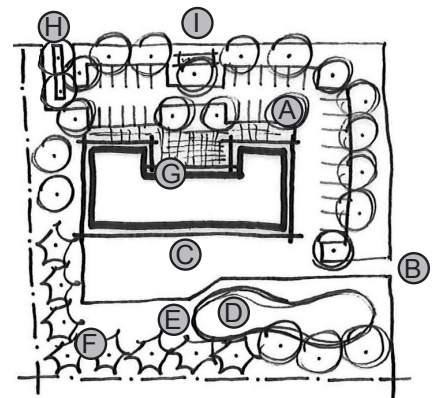


Figure 10.13 Locate service areas to the rear, side or internal to reduce visibility from the public right-of-way.



- A-Parking with Planted Islands
- B-Service Entrance
- C-Service in Rear
- D-Retention Pond as Site Amenity
- E-Green Space
- F-Landscape Screening
- G-Facade Treatments
- H-Monument Sign
- I-Controlled Access

Figure 10.14 Commercial and Industrial Site Development

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

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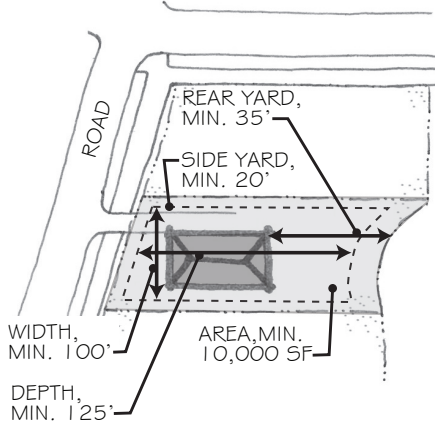


Figure 10.15 Lot area and minimum dimensions.

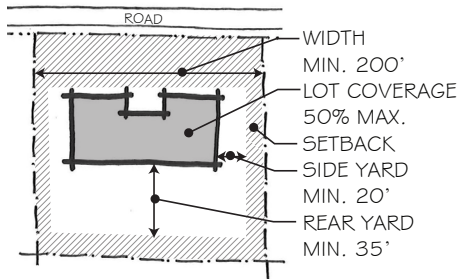


Figure 10.16 Industrial lot coverage dimensions.

### 10. EROSION AND SEDIMENT CONTROL AND STORMWATER

**MANAGEMENT:** The entire area of any business shall have an approved Land Disturbance permit and an approved Erosion and Sediment Control Plan and a Stormwater Management Plan prior to construction if the development meets the conditions described in Chapter 6.

**11. LOT AREA REGULATIONS:** The minimum total lot area shall be the area necessary to meet the stipulated yard setback and all parking, loading, buffering, sewage or other space requirements set forth for the particular use in this Ordinance. The minimum total lot area shall be the area described in a parcel of record. However, no lot or parcel of land of less than ten thousand (10,000) square feet shall be allowed as a building site unless the owner can prove that sanitary sewer facilities can be provided.

**12. LOT COVERAGE:** Not more than fifty (50) percent of the lot shall be occupied by buildings.

**13. LOT DEPTH REGULATIONS:** There shall be a minimum lot depth of not less than one hundred and twenty-five (125) feet.

### 10.11 Uses prohibited in All Districts

1. The following uses are prohibited in all zoning districts:
  - a. Industrial Mineral Operations
2. This section does not apply to any use legally established prior to the adoption of this Section 10.11. Any change to an established use shall, however, be done in accordance with the provisions of this Section 10.11.

\*10.11 revised by Winona County Board,  
November 22, 2016

## CHAPTER 11: NATURAL FEATURES OVERLAY DISTRICTS

### 11.1 Intent and Purpose

The intent of the Natural Features Overlay Districts is to conserve the sensitive and unique environmental areas of Winona County by implementing policies contained in the Comprehensive Plan as well as Federal and Minnesota policies and statutes. The focus of the Winona County Natural Features Overlay Districts includes the critical geological and environmental attributes found throughout the County in the forms of shorelands, floodplains, wetlands, steep slopes, bluff lands, and karst features. The Overlay District has the goal of protecting the public from injury and property damage due to flooding, erosion, and other natural hazards that may be intensified by developing environmentally sensitive lands. An additional goal of the overlay district is protecting natural resources for their public benefits. These resources include surface and ground water, riparian buffer areas, ground water recharge areas, and native plant and animal communities. Despite an emphasis on conservation to ensure the continued presence of natural areas, the Overlay District still recognizes the ability of residents to pursue reasonable uses of properties by permitting appropriate development activities adhering to the provisions listed in this Chapter. Specifically, Winona County has composed the Natural Features Overlay District to protect and conserve natural features for the following reasons as portrayed in the Comprehensive Plan:

1. The intrinsic value of natural areas and wildlife;
2. Flood control and the treatment of stormwater runoff;
3. Acknowledgment of historic resources and their educational and artistic significance;
4. Recreational amenities; and
5. Aesthetic and quality of life contributions.

### 11.2 Organization

The Natural Features Overlay Districts Chapter is a comprehensive approach of applying multiple, natural system overlays to manage activities in areas designated as shoreland, floodplain, wetland, karst, and steep slopes/bluffs, as well as the protection of historically significant sites within Winona County. Overlay zoning is a means for the County to superimpose a higher level of regulations for special areas in the underlying districts.

### 11.3 Shoreland

#### 11.3.1 Shoreland Statutory Authorization, Policy and Purpose

1. The Shoreland district is adopted pursuant to the authorization contained in the Laws of Minnesota 1969, Chapter 777, and in furtherance of the policies declared in Minnesota Statutes, Chapter

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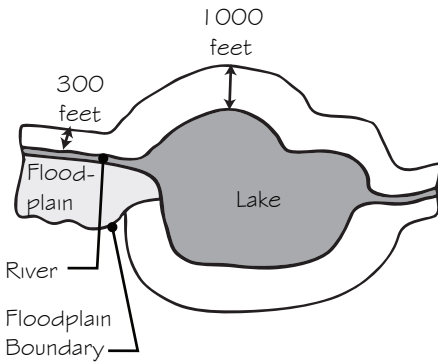


Figure 11.1 Shoreland District: includes 1000 feet back from the OHWL of lakes, 300 feet from the OHWL of rivers and back to the floodplain if it is greater. The Mississippi River is considered a general development lake.

Township	Number
Dresbach Township	105
Elba Township	107
Fremont Township	105
Hart Townshio	105
Hillsdale Township	107
Homer Township	106 & 107
Mt. Vernon Township	108
New Hartford Township	105
Norton Township	107
Pleasant Hill Township	105
Richmond Township	106
Rollingstone Township	107 & 108
St.Charles Township	106
Saratoga Township	105
Utica Township	106
Warren Township	106
Whitewater Township	108
Wilson Township	106
Winona Township	107 & 108
Wiscoy Township	105

103F, 115, 116, 394, and Minnesota Regulations, Parts 6120.2500-6120.3900.

2. The uncontrolled use of shorelands of Winona County, Minnesota, affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise development of shorelands of public waters. The legislature of Minnesota had delegated responsibility to the counties of the state to regulate the subdivision, use and the development of the shorelands of public waters located in unincorporated areas and thus preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands and provide for the wise utilization of waters and related land resources. This responsibility is hereby recognized by Winona County, Minnesota.
3. To achieve the policies described in Section 11.1, and to;
  - a. Designate suitable land use districts for each public water;
  - b. Regulate the placement of sanitary and waste disposal facilities on lots;
  - c. Regulate the area of a lot and the length of water frontage suitable for a building site; and
  - d. Regulate alteration of the shorelands of public waters.

### 11.3.2 Shoreland Classification Scheme

The Regulations in the Shoreland Zoning District of Winona County will apply to all rivers and lakes classified by the Department of Natural Resources as defined in the adjacent tables.

The public waters of Winona County have been classified in Table 11.4 following the criteria found in Minnesota Regulations, Part 6120.3000. The shoreland areas of the public water listed below and those designated trout stream tributaries shown on the revised 1996 Protected Waters and Wetlands Maps for Winona County are regulated by this Section. Those public waters not specifically classified shall be consider "Tributary". Changes made to the public waters inventory map of Winona County by Minnesota Department of Natural Resources will be incorporated into this section by reference.

Class	Name	From			To		
		Sec.	Twp.	Rg.	Sec.	Twp.	Rg.
Tributary	Trout Run (TR)	6	105	10	7	105	10
Tributary		18	105	10	32	105	10
Tributary	Unnamed to TR	30	105	10	30	105	10
Tributary		30	105	10	30	105	10
Tributary	Unnamed to TR	18	105	10	19	105	10
Tributary	Money Creek	28	105	10	33	105	10
Tributary	Pine Creek(PC)	19	105	9	32	105	9



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Tributary		33	105	9	33	105	9
Tributary		33	105	9	33	105	9
Tributary		34	105	9	34	105	9
Tributary		35	105	9	33	105	8
Tributary	Unnamed to PC	25	105	10	30	105	9
Tributary	Unnamed to PC	31	105	9	31	105	9
Tributary	Hemingway Creek	28	105	9	26	105	9
Tributary	Coolidge Creek	22	105	9	22	105	9
Tributary		23	105	9	26	105	9
Tributary	Rush Creek (RC)	34	106	9	33	105	8
Tributary	Ferguson Creek	11	105	9	11	105	9
Tributary		12	105	9	18	105	8
Tributary	Unnamed to RC	27	106	9	27	106	9
Tributary		26	106	9	35	106	9
Tributary	Unnamed to RC	30	106	8	25	106	9
Tributary		36	106	9	36	106	9
Tributary	Unnamed to RC	4	105	8	4	105	8
Tributary		9	105	8	19	105	8
Tributary	Unnamed to RC	15	105	8	21	105	8
Tributary		20	105	8	33	105	8
Tributary	Unnamed to RC	27	105	8	34	105	8
Tributary		33	105	8	33	105	8
Tributary	Money Creek (MC)	3	105	7	16	105	7
Tributary		21	105	7	35	105	7
Tributary	Gernander Creek	24	105	8	29	105	7
Tributary	West Branch Money Creek	5	105	7	16	105	7
Tributary	Wiscoy Creek	6	105	7	6	105	7
Tributary	Unnamed to MC	4	105	7	3	105	7
Tributary	Unnamed to MC	15	105	7	15	105	7
Tributary		16	105	7	16	105	7
Tributary	Corey Creek (CC)	18	105	6	34	105	7
Tributary		35	105	7	35	105	7
Tributary	Campbell Creek	21	105	6	32	105	6
Tributary	Looney Creek	34	105	6	34	105	6
Tributary	Silver Creek	35	105	6	35	105	6
Tributary	Pine Creek(PiC)	14	105	6	12	105	5
Tributary		13	105	6	32	105	5
Tributary		34	105	5	34	105	5
Tributary		35	105	5	35	105	5
Tributary	Unnamed to PiC	36	105	6	32	105	5
Tributary	South Fork Pine Creek	24	105	6	19	105	5
Tributary	Unnamed to PiC	18	105	5	18	105	5
Tributary	Unnamed to PiC	20	105	5	29	105	5
Tributary	Unnamed to PiC	29	105	5	32	105	5
Tributary	Rose Valley Creek	22	105	5	25	105	5
Tributary	Lane Valley Creek	24	105	5	36	105	5
Tributary	Burns Valley Creek	31	105	4	31	105	4

**TABLE 11.2 Shoreland Classification Scheme**

Natural Environment	NE
General Development	GD
Remote river segments	R
Forested river segments	F
Transition river segments	T
Agricultural river segments	A
Tributary river segments	Tr

**TABLE 11.3 LAKES**

CLASS	NAME	INVENTORY NMBR
GD	U.S. Lock and Dam No. 7 Pool	85-0001 00
GD	U.S. Lock and Dam No. 6 Pool	85-0002 00
NE	Polander	85-0013 01
NE	Boller's Lake	85-0010 00
GD	U.S. Lock and Dam No. 5A Pool	85-0013 00
GD	U.S. Lock and Dam No. 8 Pool	28-0005 00
GD	U.S. Lock and Dam No. 5 Pool	79-0001-00

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Tributary	Dakota Creek (DC)	3	105	5	7	105	4
Tributary	Unnamed to DC	11	105	5	2	105	5
Tributary	Richmond Creek	27	106	5	22	106	5
Tributary	Unnamed to Mississippi River	20	106	5	17	106	5
Tributary	Big Trout Creek	34	106	6	7	106	5
Tributary		8	106	5	8	106	5
Tributary	Little Trout Creek	32	106	5	13	106	6
Tributary	Cedar Creek	6	105	6	1	106	6
Tributary	Cedar Valley Creek	5	105	6	5	105	6
Tributary	Cedar Valley Creek	32	106	6	32	106	6
Tributary	Homer Creek	8	106	6	33	107	6
Tributary	Pleasant Valley Creek	25	106	7	1	106	7
Tributary		31	107	6	31	107	6
Tributary	Unnamed to PVC	13	106	7	7	106	6
Tributary	East Burns Valley Creek	15	106	7	35	107	7
Tributary		36	106	7	36	107	7
Tributary	West Burns Valley Creek	16	106	7	3	106	7
Tributary	Gilmore Creek	6	106	7	20	107	7
Tributary		19	107	7	19	107	7
Tributary	Garvin Brook (GB)	17	106	8	11	107	8
Tributary		2	107	8	2	107	8
Tributary	Unnamed to GB	35	107	8	34	107	8
Tributary	Stockton Valley Creek (SVC)	23	106	8	34	107	8
Tributary	Unnamed to SVC	24	106	8	24	106	8
Tributary		14	106	8	14	106	8
Tributary	Unnamed to SVC	10	106	8	3	106	8
Tributary	Peterson Creek	7	106	8	8	106	8
Tributary	Unnamed to GB	33	107	8	33	107	8
Tributary	Rollingstone Creek (RC)	35	107	9	11	107	8
Tributary	Middle Valley Creek	16	107	8	11	107	8
Tributary	Unnamed to RC	35	107	9	35	107	9
Tributary	Bear Creek (BC)	16	107	9	13	107	9
Tributary	Unnamed to BC	22	107	9	15	107	9
Tributary	Straight Valley Creek	11	107	9	12	107	9
Tributary	Speltz Creek (SC)	35	108	9	35	108	9
Tributary		36	108	9	5	107	8
Tributary	Unnamed to SC	36	108	9	36	108	9
Tributary	Deering Valley Creek	20	108	8	28	108	8
Tributary	Trout Valley Creek (TVC)	20	108	9	5	108	9
Tributary	Unnamed to TVC	9	108	9	9	108	9
Tributary		8	108	9	8	108	9

Tributary	Unnamed to TVC	21	108	9	21	108	9
Tributary		17	108	9	17	108	9
Remote	Whitewater River (WR)	9	107	10	1	108	10
Forested	Whitewater River (WR)	6	108	9	6	108	9
Tributary	Unnamed to WR	23	108	10	23	108	10
Tributary	Unnamed to WR	36	108	10	36	108	10
Tributary		35	108	10	35	108	10
Agricultural	South Fork WR (SFWR)	19	106	10	2	106	10
Transition	South Fork WR (SFWR)	1	106	10	3	107	10
Tributary	Unnamed to SFWR	6	107	9	11	107	10
Tributary	Unnamed to Unnamed	12	107	10	12	107	10
Tributary	Unnamed to SFWR	30	107	9	30	107	9
Tributary		25	107	10	24	107	10
Tributary	Unnamed to SFWR	7	106	9	7	106	9
Tributary		6	106	9	1	106	10
Tributary	Unnamed to SFWR	15	107	10	15	107	10
Tributary		14	107	10	14	107	10
Transition	Middle Fork WR (MFWR)	30	107	10	19	107	10
Tributary		19	107	10	9	107	10
Tributary	Trout Run (TrR)	31	107	10	31	107	10
Tributary		29	107	10	29	107	10
Tributary	Unnamed to TrR	29	107	10	29	107	10
Tributary	Unnamed to MFWR	19	107	10	19	107	10
Transition	North Fork WR	6	107	10	9	107	10
Tributary	Unnamed to Randall Pool	32	108	10	27	108	10
Tributary	Beaver Creek (BeC)	19	108	10	15	108	10
Tributary	Unnamed to BeC	17	108	10	17	108	10
Tributary		16	108	10	16	108	10
Tributary	Unnamed to WR	3	108	10	3	108	10
Tributary		10	108	10	11	108	10

### 11.3.3 Designated Trout Streams

The stream names Section in Table 11.5 are the names listed in the Minnesota DNR Protected Waters Inventory for Winona County. Minnesota DNR Fisheries have recognized different names for some streams that are designated as trout streams in Minnesota Rules.

Chapter 6264. These names may or may not be names local citizens use to identify these streams.

Table 11.5 lists designated trout waters in Winona County, their location and the Protected Waters Name listed in the Protected Waters Inventory.

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TABLE 11.5 Designated Trout Streams

Trout Stream Name	Twp.	Rg.	Section	Protected Waters Name
Ahrensfield Creek	105	8	8,9,16,17,19,20	Unnamed to Rush Creek
Bear Creek	107	9	13,14,15,16,22	
Beaver Creek	108	10	15,16,19,20,21	
Borson Spring	105	8	29,32,33	Unnamed to Rush Creek
Burns Valley Creek East Branch	106	7	3,10,15	East Burns Valley Creek
Burns Valley Creek West Branch	106 107	7 7	3,4,9,16 34	West Burns Valley Creek
Burns Valley Creek Main Branch	106 107	7 7	2 35	East Burns Valley Creek
Campbell Creek	105	6	21,28,29,32	
Cedar Valley Creek	105 106	6 6	6 1,11,12,14,15, 21,22,28,29,31, 32	Cedar Creek
Coolridge Creek	105	9	23,26	
Corey Creek	105 105	6 7	18,19 24,25,26,27,34	
Dakota Creek	105 105	4 5	7 1,2,3,11,12	
Ferguson Creek	105 105	8 9	18 12,13	
Garvin Brook	106 107	8 8	4,5,8,17 10,11,14,15,23, 26,27,33,34,35	
Gilmore Creek	106 107	7 7	6 20,29,30,31,32	
Hemingway Creek	105	9	26,28,33,34,35	
Money Creek	105	7	3,4,6,7,8,9,16,17	
Peterson Creek	106	8	7,8	
Pickwick Creek	106 106	5 6	7,18 13,23,24,26,34,35	Big Trout Creek
Pickwick Creek, Little	106 106	5 6	18,19,29,30,32 13	Little Trout Creek
Pine Creek (Fillmore)	105 105 105	8 9 6	30,31,32,33 25,26,33,34,35 13,36	
Pine Creek South Fork	105 105	5 6	19 24	
Pleasant Valley Creek	106 106	6 7	7,18,19 1,12,13,24,25	

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Rollingstone Creek	107 107	8 9	2,3,4,5,6,7,9, 10,11 12,13	
Rollingstone Creek Middle Branch	107	8	9,16	Middle Valley
Rose Valley Creek	105	5	22,27,34,35	
Rupprecht Creek	107	9	13,24,25,26,35	Rollingstone Creek (upper portion)
Rush Creek (Fillmore)	106 105 105	9 9 8	26,34,35,36 1,2,12 6,7,18,19,0,29, 32,33	
Silver Creek (Houston)	105	6	34,35	Looney Creek (included)
Speltz Creek	107 108 108	8 8 9	5,6 31 36	
Stockton Valley Creek	106 107	8 8	2,3,10,11,14,23 34	
Straight Creek	107	9	2,11,12	Straight Valley Creek
Trout Run Creek (Fillmore)	105	10	18,19,30,31,32	Trout Run
Trout Run - Whitewater Park	107	10	29	
Trout Valley Creek (Wabasha)	108	9	5,8,17,20	
Unnamed Creek (Whitewater Tributary)	108	10	35,36	
Unnamed Creek	105 105	7 8	19,29,30 24	Gernander Creek
Unnamed Creek (Miller Valley)	106	5	21,22,27,28	Richmond Creek
Unnamed Creek (Deering Valley)	108	8	20,28,29	Deering Valley Creek
Whitewater River Main Branch	107 108	10 10	2,3,9,10 1,2,10,11,14,15, 22,23,26,27,35	Whitewater River (WR)
Whitewater River Middle Branch (Olmsted)	107	10	9,10,16,17,19, 20,30	Middle Fork WR
Whitewater River North Branch (Wabasha & Olmsted)	107	10	5,6,7,8,9	North Fork WR
Whitewater River South Branch	106 106 107 107	9 10 9 10	6 1 31 3,10,11,13,14,24,25,36	South Fork WR

### 11.3.4 Permitted Uses

All permitted uses are allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official zoning map of the County, unless it is listed as a conditional use under Section 11.3.5. Those uses listed as conditional uses under the applicable zoning district underlying the shoreland overlay district shall be permitted uses if the Minnesota Department of Natural Resources granted a Public Waters Work Permit for such use within the scope of work that is being performed pursuant to Minnesota Statute 103G.245.

### 11.3.5 Conditional Uses

All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the County and as required by Chapter 5 of the Ordinance. The following uses are conditional uses also, if listed as permitted uses in the applicable underlying zoning district:

1. Agricultural feedlots.
2. Parks and historic sites.
3. Dwellings within the A/RC District.
4. Public, semi public uses.
5. Duplexes.
6. Surface water oriented commercial uses.
7. Commercial uses except on General Development Lakes.
8. Industrial uses.

### 11.3.6 Prohibited Uses

Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the Official Zoning Map of the County.

### 11.3.7 Performance Standards

1. **PURPOSE:** To manage the effects of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the state, to provide ample space on lots for sewage treatment systems, to minimize damage caused by flood and erosion, to maintain property values, to maintain historic values of significant historic sites, and to maintain ecological integrity and natural characteristics of shorelands and adjacent water areas, shoreland controls must regulate lot sizes, placement of structures, and alterations of shorelands.
2. **LOT SIZE:** Lots created after the date of enactment of the local shoreland controls must meet or exceed the standards presented in subparts 11.3.7(3) and 11.3.7(4), and the following:
  - a. If the underlying zoning district lot dimensional standards are more restrictive, then they shall apply.

- b. Suitability. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the required minimum structure setback from the ordinary high water level. Local government controls shall also require all of the following standards to be met:
  - I. In areas not served by publicly-owned sewer, the buildable area shall be at least eight thousand five hundred (8,500) square feet per lot.
  - II. In areas not served by publicly owned sewer, local governments shall require at least two soil treatment and dispersal areas be available for each lot, as described in Minnesota Rules, Chapter 7082.
- c. Lots must not be created for the intention of obtaining access to public waters where multiple owners or an association, whose members are entitled by virtue of the member's ownership interest in the association to a proprietary lease, own the lot except as provided in Minnesota Rules 6120.4200 and the common open space of planned unit developments in part 6120.4000.
- d. Lot sizes may be smaller or densities may be greater than those specified in subpart 11.3.7(3) and 11.3.7(4) with any of the following:
  - I. For cities, density for subdivisions and lot sizes may be the same as for the underlying zoning district provided all the following criteria are met or exceeded:
    - i. the area is not within designated wild, scenic, or recreational river shorelands;
    - ii. the area is served by publicly-owned sewer;
    - iii. the stormwater facilities within the area have adequate maintenance standards and the city has identified the responsible parties for such maintenance; and
    - iv. the area is within an existing residential area having at least three (3) dwelling units per acre, a downtown area, a brownfield area, or a previous industrial area; and elsewhere the following is required:
      - 1. the Comprehensive Land Use Plan has identified the area for higher density development than provided by subpart 11.3.7(3)(a);
      - 2. Minnesota licensed Professional Engineer, with expertise in stormwater management and appropriate training, and certified personnel in Design of Stormwater Pollution Prevention Plans are on staff or contract, and they review development plans and implementation of stormwater management best management practices to meet or exceed performance standards;

3. a Comprehensive Stormwater Management Plan and a Stormwater Ordinance have been adopted and effectively implemented; and
  4. a natural resource priority map for their jurisdiction.
- II. Where land dedication or conservation easement of the riparian area is elected or required, density and the minimum lot width and lot size may be the same as for the underlying zoning district. The riparian area is the land located between the ordinary high water level of a public water and a line parallel to it at a specified distance measured horizontally for the entire width of the parcel. A one hundred fifty (150) foot riparian area dedication or conservation easement is required for developments under this paragraph except for cities within areas meeting the requirements of subitem 11.3.7(2), a one hundred (100) foot riparian area dedication or conservation easement may be used. The local government must approve accepting any dedication and the form of any conservation easement, and the protection and administration of this area shall be consistent with Minnesota Rule Chapter 6120.4100, subpart 4, item C.

**3. LOT AREA AND WIDTH STANDARDS:**

- a. The minimum lot width (feet) and lot size (sqft) for new single-family residential lots are shown in tables 11.6(a-d) and 11.7.
- b. The minimum lot width (feet) and lot size (sqft) for new duplex residential lots are shown in tables 11.6(a-d) and 11.7.
- c. Duplex, multi-family dwelling, and commercial lots are not allowed within designated wild, scenic, and recreational river shorelands.

Table 11.6(a) Unsewered Lakes Natural Environment				
	Riparian Lots		Nonriparian	
	Area	Width	Area	Width
Single	80,000	200'	80,000	200
Duplex	120,000	300'	160,000	400

Table 11.6 (b) Sewered Lakes Natural Environment				
	Riparian Lots		Nonriparian	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220

Table 11.6(c) Unsewered Lakes General Development				
	Riparian Lots		Nonriparian	
	Area	Width	Area	Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265

11.6 (d) Sewered Lakes General Development				
	Riparian Lots		Nonriparian	
	Area	Width	Area	Width
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135



	Single		Duplex	
Remote	300'		450'	
Forested	200'		300'	
Transition	250'		375'	
Ag	150'		225'	
Tributary	No Sewer	Sewer	No Sewer	Sewer
	100'	75'	150'	115'

4. DENSITY:

- a. The local government shall regulate residential densities for subdivisions, and the density shall be the lesser of:
  - I. The local government's underlying zoning district density; or
  - II. The project area divided by the single-family residential lot size for the shoreland class in subpart 11.3.7(2). Calculations that result in fractional units/sites, the fractional number shall be rounded to the nearest whole number.
- b. The local government shall have shoreland control for resorts that meet the density standards in Minnesota Rules Chapter 6120.4400, subpart 10.

5. OPEN SPACE REQUIREMENTS:

- a. Open space shall be integrated into residential and commercial developments as required in Minnesota Rules Chapter 6120.4100.
- b. Local governments may identify locations within their jurisdiction where riparian dedication or conservation easements are allowed or required for development and redevelopment for the purpose of allowing density at the underlying zoning district consistent with Minnesota Rules Chapter 6120.3300, subpart 2, item D, subitem (3) and for providing open spaces such as parks, trails, and recreational and natural areas in shorelands.

6. PLACEMENT AND HEIGHT OF STRUCTURES AND FACILITIES ON LOTS:

When more than one (1) setback requirement 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. The placement of structures and other facilities on all lots must be managed by shoreland controls as follows:

- a. The minimum structure setbacks, except water-oriented accessory structures that are managed according to 11.3.7(6) (f), shall be:

# Chapter 11

## SHORELAND

- I. Structure setback standards from Ordinary High Water Level (OHWL) in feet are shown in table 11.8.
- II. Additional Structure setback standards in the Shoreland District are shown in table 11.9.
- III. fifty (50) feet from the riparian dedication or conservation easement area, where a one hundred (100) foot or greater riparian area fee-simple title dedication or conservation easement is elected or required consistent with subpart 2;
- IV. seventy five (75) feet from type 3, 4 and 5 wetlands having surface water connections or adjacent public waters and not classified as natural environment;

TABLE 11.8 Structure and Septic setback standards from OHWL (feet)

Class	Structure (non-municipal service location)	Structure (municipal service location)	Sewage Treatment System
Forested/Transition	150	150	100
Agriculture/Tributary Rivers	100	50	75
Remote	200	200	150
Natural Environment	150	150	150
General Development	75	50	50

Table 11.9 Add'l Structure Setbacks

Setback From	Setback (in feet)
Unplatted cemetery	50
Right-of-way line of federal, state or county highway; and	50
Right-of-way line of town road, public street or other roads or streets not classified	20
Bluff	30

- b. High water and lowest floor elevations. In addition to the setback requirements of section 11.3.7(6)(a), local shoreland controls must regulate placement of structures in relation to high water elevation. Where state-approved, local flood plain management controls exist consistent with Minnesota Rules Chapter 6120.5000 to 6120.6200, structures must be placed at an elevation consistent with the flood protection elevation specified in these controls. Where these controls do not exist, the elevation to which the lowest floor, including basement and crawl spaces, is placed or flood-protected must be determined as follows:
  - I. For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher. As an alternative, the lowest floor may be placed at an elevation equal to or above the flood protection elevation determined consistent with Minnesota Rules Chapter 6120.5000 to 6120.6200. In instances where lakes have a history of extreme water level fluctuations or have no outlet capable of keeping the lake level at or below a level three (3) feet above the ordinary high water level, local controls may require structures to be placed higher.
  - II. For rivers and streams, by placing the lowest floor at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher. As an alternative, the lowest floor

- may be placed at an elevation equal to or above the flood protection elevation determined consistent with parts Minnesota Rules Chapter 6120.5000 to 6120.6200.
- III. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subpart if the structure is constructed of flood-resistant
  - IV. 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.
- c. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones. No impervious surfaces shall be allowed within the shore impact zone, except where allowed by permit for private boat launches, water-oriented accessory structures, stairways or lifts and their associated landings. Bluff and shoreline buffers shall be consistent with part Minnesota Rules Chapter 6120.3400.
  - d. Structures shall not be located on slopes greater than eighteen (18) percent within designated wild, scenic, and recreational river shorelands.
  - e. Height Requirements.
    - I. For areas outside of a municipality:
      - i. Agricultural structures and legally approved conditional uses are exempt from the height limitation of thirty five (35) feet. Dwellings either established as a permitted use or through a Conditional Use Permit are limited to a maximum height of thirty five (35) feet.
      - ii. Structures not enumerated in (1) shall not exceed a height of thirty-five (35) feet.
    - II. For areas within a municipality, except in designated wild, scenic, and recreational river shorelands, the maximum height of structures shall follow the requirements of the underlying zoning district.
  - f. Each residential lot and commercial property may have one (1) water-oriented accessory structure located closer to public waters than the structure setback if all of the following standards are met:
    - I. The structure must not exceed ten (10) feet in height, exclusive of safety rails, exceed ten (10) feet in width, as measured parallel to the shoreline, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point.
    - II. The setback of the structure from the ordinary high water level must be at least ten (10) feet.
    - III. The structure 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.
- IV. The structure must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
  - V. Any accessory structures not meeting the above criteria, or any additional accessory structures must meet or exceed structure setback standards.
  - VI. No water-oriented accessory structures are allowed within wild, scenic, and recreational river shorelands.
  - VII. New boathouses are prohibited. Existing boathouses may be repaired, replaced, and removed provided the provisions in Minnesota Rules Chapter part 6115 and Minnesota Statutes, chapter 103G, are met or exceeded and approved by the local government.
- g. 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:
- I. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments if approved by the local government.
  - II. 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 if approved by the local government.
  - III. Canopies or roofs are not allowed on stairways, lifts, or landings.
  - IV. 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.
  - V. 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 subitems 11.3.7(6)(g)(I-V) are complied with in addition to the requirements of Minnesota Rules, Chapter 1341.
  - VI. Stairways, lifts and landings may be either constructed above the ground on post pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion and containment of sediment.
- h. Except as provided in item 11.3.7(6)(f), decks must meet the structure setback standards.

I. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

- i. 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;
- ii. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and
- iii. The deck is constructed primarily of wood, and is not roofed or screened.

i. For residential lots, a recreational vehicle shall not be used as a dwelling unit if the lot and density standards in sections 11.3.7(3) and 11.3.7(4) are not met or exceeded. Storing a recreational vehicle on a lot does not constitute a dwelling unit or site. Recreational vehicles must meet the structure setback requirements in section 11.3.7(6)(a).

#### 7. SHORELINE FACILITIES

- a. Shoreline facilities, including but not limited to docks, mooring facilities, watercraft lifts, and structures extending over or under, anchored to, or attached to the bed or bank of public water, must comply with Minnesota Rules, Chapter part 6115.0210.
- b. Shoreline facilities must be designed in consideration of land slope in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors to maintain functions and values of existing natural features.
- c. Access lots, consistent with Minnesota Rules, Chapter 6120.4200, must be used where direct riparian access is not appropriate for one or more lots in a new subdivision due to the presence of protected vegetation, extensive shallow water, wetlands, or other critical fish or wildlife habitat.
- d. Resorts shall meet the standards in Minnesota Rules, Chapter 6120.4400, subpart 9.
- e. Walkways landward of the ordinary high water level shall be used in place of fill to bridge wetland areas to reach the shore. These walkways must be elevated at least sixteen (16) inches above the surface of the wetland and limited to a width of eight (8) feet.

8. PLACEMENT AND DESIGN OF PRIVATE ROADS, DRIVEWAYS, AND PARKING AREAS: Private roads, driveways, 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 technical guides such as the most current version of the Minnesota Stormwater Manual and Minnesota-Protecting Water Quality in Urban Areas Manual.

- a. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
  - b. Low-volume private roads or privately maintained roads shall have pavement widths twenty two (22) feet or less.
  - c. Parking areas with ten (10) or more spaces or in excess of three thousand (3,000) square feet must be designed to permanently treat one inch of runoff from the impervious surfaces created, and preference must be given to volume reduction techniques. This can be accomplished through use of soil amendments, infiltration, bioretention, pervious pavement, rain gardens, enhanced swales, disconnected impervious surfaces or other locally approved volume reduction techniques. If the runoff reduction standard is not physically possible to meet due to the size of the site or high impervious surface coverage, mitigation shall be required consistent with the standards in Minnesota Rules, Chapter 6120.2900, subpart 6.
  - d. A private watercraft access ramp and associated access path may be allowed within the shore impact zone, except in designated wild, scenic, and recreational river shorelands, provided the requirements of Minnesota Rules, Chapter 6115.0210, the buffer standards in Minnesota Rules, Chapter 6120.3400, and erosion and stormwater control conditions in Minnesota Rules, Chapter 6120.3500 are met. The access path shall not be placed within bluff impact zones.
9. PUBLIC ROADS, RAIL LINES, TRAILS AND WATER ACCESS FACILITIES: Public roads, rail lines, trails, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and prudent placement alternatives exist.
- a. Design for public roads, rail lines, trails, and water access facilities shall preserve and enhance vegetation and topography to aid in screening of these areas from view from public waters.
  - b. Construction methods shall control erosion and runoff to public waters and be consistent with the latest Minnesota Pollution Control Agency General Stormwater Permit for

Construction Activity requirements, Minnesota Department of Transportation Standard Specifications for Construction, Minnesota Stormwater Manual, Minnesota Protecting Water Quality in Urban Areas Manual, the States Organization for Boating Access latest Design Handbook For Recreational Boating and Fishing Facilities, or local government standards. Best management practices shall be designed, installed and maintained to reduce runoff. Best management practices may include porous pavement, grass parking overflow areas, filter strips, shoreline buffers, swales, infiltration and bioretention basins, disconnected impervious areas, rain gardens and other conservation designs.

- c. Design and construction of roads within designated wild, scenic, and recreational river shorelands must also meet or exceed the standards in Minnesota Rules, Chapter 6120.3800.

#### 10. AGRICULTURAL USE STANDARDS

- a. The shore impact zone or shoreline buffer for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet landward from the ordinary high water level and shall be maintained in a continuous ground cover of permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the Winona County Soil and Water Conservation District or the Natural Resources Conservation Service (NRCS), as provided by a qualified individual or agency. Agricultural practices within the shore impact zone may include but are not limited to managed grazing, nurseries, biomass and wild crop harvesting, woody crops, and other agricultural practices that do not impact the integrity of the shoreline buffer.
- b. Within shoreland areas that are outside of the shore impact zone, general cultivation farming, row crops, grazing, nurseries, horticulture, truck farming, sod farming, biomass and wild crop harvesting are permitted uses if steep slopes and bluff impact zones are maintained in permanent vegetation or the land is operated under an approved conservation plan from the local soil and water conservation district consistent with the latest best management practices.
- c. Local governments with thirty (30) percent or greater land cover in cultivation shall establish by resolution the framework whereby sections 11.3.7(10)(a-c) can be achieved based upon:
  - I. Identification of areas where shoreline buffers are lacking
  - II. Public information and education on the need for buffers and options on how they can be achieved.
  - III. A monitoring program to ensure progress and compliance
  - IV. Enforcement options when voluntary measures or watershed-based approaches prove to be inadequate.
- d. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet

a minimum setback of three hundred (300) feet from the ordinary high water level of all public waters basins. Modifications or expansions to existing feedlots that are located within three hundred (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. In addition, existing feedlots and expansions must conform to the standards in Minnesota Rules, Chapter 7020.

- e. Use of fertilizer, pesticides, or animal wastes within shorelands must conform to Minnesota Statutes, chapters 18B, 18C, 18D and 103H, established by the Minnesota Department of Agriculture and Pollution Control Agency.

11. FOREST MANAGEMENT STANDARDS: The harvesting of timber and associated reforestation must be conducted consistent with the following standards:

- a. Timber harvesting, biomass harvesting within forestlands and brush lands, and associated reforestation must be conducted consistent with the guidelines contained in the "sustain Minnesota Resources, Voluntary Site Level Forest Management" booklet, available from MNDNR and the Winona County Planning Department.
- b. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water.

12. EXTRACTION USE STANDARDS

- a. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs, except that the bluff setback shall not apply if the processing machinery is located inside an excavated portion of the pit. Processing machinery includes crushers, hot-mix plants, redi-mix plants, and similar machinery, whether mobile or immobile, and does not include earth-moving equipment, conveyors and similar equipment. Extractive activities are prohibited within fifty (50) feet from the ordinary high water level of public waters.
- b. A site management plan must be developed and approved by the local government prior to commencing extractive activities and followed over the course of operation of the site. The plan shall describe how the pit will be developed over time with an emphasis on minimizing environmental risks to public waters and explain where staged reclamation may occur at certain points during the life of the pit. The plan must address dust, noise, stormwater management, possible pollutant discharges, days and hours of operation, duration of operation, any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land. A stormwater permit from



the Pollution Control Agency pursuant to Minnesota Rules, Chapter 7090, shall be required.

13. STANDARDS FOR COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, PUBLIC AND SEMIPUBLIC USES: Those with water oriented needs must meet the following standards:
- a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - b. Uses that require short-term watercraft mooring for patrons must centralize the shoreline facilities. Shoreline facilities, including but not limited to docks, mooring facilities, watercraft lifts, and structures extending over or under, anchored to, or attached to the bed or bank of public water, must comply with Minnesota Rules, Chapter 6115.0210 and Minnesota Statutes, Section 86B.115.
  - c. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - I. Signs may be placed within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 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. Signage is also subject to the general standards contained in Chapter 9 of the Winona Zoning Ordinance.
    - II. 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 and to the sky. This does not preclude use of navigational lights.
14. WATER SUPPLY AND SEWAGE TREATMENT:
- a. Purpose: The proper location, design, installation, use, and maintenance of a subsurface sewage treatment system protects the public health, safety, and general welfare by the discharge of adequately treated sewage to the groundwater that flow into lakes and rivers.
  - b. 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. Private wells must be located, constructed, maintained, and sealed in accordance with Minnesota Rules, Chapter 4725.

Signs may not:





-  Include product brands
-  Include product prices
-  Be located 10 ft. above ground
-  Exceed 32 square feet

Figure 11.2 Prohibited signage in Shoreland Overlay

- c. Sewage Treatment: Any premises used for human occupancy must be provided with an adequate method of sewage treatment in accordance with the following standards:
  - I. Publicly-owned sewer systems must be used where available and feasible.
  - II. All subsurface sewage treatment systems must meet or exceed Minnesota Rules, Chapters 7080 to 7083, and any applicable local government standards.
  - III. On-site subsurface sewage treatment systems must be set back from the ordinary high water level in accordance with table 11.8.
  - IV. On-site subsurface sewage treatment systems must be set back fifty (50) feet from rivulets.
  - V. Local governments shall require the property owner to obtain a valid certificate of compliance for the subsurface sewage treatment system with conveyance of the lot or issuance of any permit/certificate or variance.
  - VI. Vacation home rental properties must meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Lodging establishments shall meet or exceed the requirements of Minnesota Statutes, Chapter 157, and Minnesota Rules, chapter 4625. The subsurface sewage treatment system shall be designed and constructed meeting or exceeding the design flow requirements for the dwelling units consistent with Minnesota Rules, Chapters 7080 and 7081, and Chapter 13 (SSTS) of the Winona County Zoning Ordinance. A certificate of compliance for the subsurface sewage treatment system is required.
- d. Development Certificate:
  - I. If inadequate records or no records exist for the property in question, prior to issuing a Development Certificate, a septic inspection must be performed by a Minnesota Licensed SSTS Inspector and a report must be filed with the Planning Department indicating if the system is in compliance with Minnesota State Rules.
  - II. All private sewage treatment systems must meet or exceed Chapter 13. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Chapter 13.
- e. Non-Conforming Sewage Treatment Systems: A sewage treatment system not meeting the requirements of Chapter 13 must be upgraded, at a minimum, at any time a permit/certificate or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary

high water level. Replacement and upgrade of a sewage treatment system shall be designed and constructed meeting or exceeding the design flow requirements for the structure consistent with Minnesota Rules, Chapters 7080 and 7081, and Chapter 13 (SSTS) of the Winona County Zoning Ordinance.

- f. Public Education and Outreach: Winona County will implement a notification or education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, if non-conforming.
15. SIGNIFICANT HISTORIC SITES: No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been significantly removed and documented in a public repository.
16. STEEP SLOPES: The Planning Director 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/certificates 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.
17. 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.
- a. Vegetation Alterations
    - I. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 10.1.8(4) are exempt from the vegetation alteration standards that follow.
    - II. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 11.3.7(10) and 11.3.7(11), respectfully, is allowed subject to the following standards:
      - i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forested land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located. Clearing of invasive species shall be allowed through the use of BMPs during harvesting of vegetation.
      - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting,

An applicant or a property owner has the ability to submit an Administrative Appeal as described in Section #5.3.3(1) to a decision rendered by the Planning Director.

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:

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

b. Land Disturbance and Topographic Alterations:

- I. Land Disturbance and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued permits/certificates for these facilities do not require the issuance of a separate Land Disturbance Permit. However, the land disturbance standards in this Section must be incorporated into the issuance of permits/certificates for construction of structures, sewage treatment systems, and driveways.
- II. Public roads and parking areas are regulated by Section 11.3.7(8) of this Ordinance.
- III. Notwithstanding Items (I) and (II) above, a Land Disturbance permit will be required for:
  - i. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - ii. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- IV. The following considerations and conditions must be adhered to during the issuance of Development Certificates, Land Disturbance Permits, Conditional Use Permits, Variances and Subdivision approvals:
  - i. Land Disturbance in any wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
    1. Sediment and pollutant trapping and retention;
    2. Storage of surface runoff to prevent or reduce flood damage;
    3. Fish and wildlife habitat;
    4. Recreational use;
    5. Shoreline or bank stabilization; and

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

\* 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:

- a. 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.
- b. 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.
- c. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- d. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Winona County SWCD and the Natural Resources Conservation District.
- e. Fill or excavated material must not be placed in a manner that creates an unstable slope.
- f. 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.
- g. Fill or excavated material must not be placed in bluff impact zones.
- h. Any alterations below the ordinary high water level of public waters must first be authorized through a MNDNR Public Waters Permit.
- i. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (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.
- k. 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

18. STORMWATER MANAGEMENT:

- a. General Standards

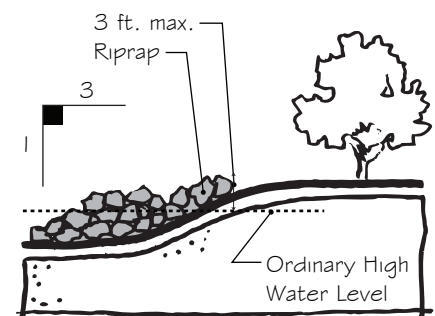


Figure 11.3 Placement of riprap

- I. Whenever possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
  - II. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduced and delay runoff volumes. Disturbed area must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - III. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human made materials and facilities.
- b. Specific Standards
- I. Impervious surface coverage of lots must not exceed twenty five (25) percent of the lot area.
  - II. 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 Winona County Soil and Water Conservation District.
  - III. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

### 11.3.8 Nonconforming Uses and Structures

All legally established nonconforming uses as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and other regulations of Winona 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 NONCONFORMING 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 Section 11.3.7(3) 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 zoning certificate is issued for a lot. In evaluating this 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 (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 11.3.7(3), the lot must not be considered as a separate parcel of land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 11.3.7(3) as much as possible.
2. ADDITIONS/EXPANSIONS TO NONCONFORMING STRUCTURES.
- a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements. Any deviation from these requirements must be authorized by a variance pursuant to Chapter 5 of the Winona County Zoning Ordinance.
  - 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:
    - I. The structure existed on the date the structure setbacks were established.
    - II. 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.
    - III. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent 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.
    - IV. The deck is constructed primarily of wood, and is not roofed or screened.

#### 11.3.9 Subdivision / Platting Provisions

1. LAND SUITABILITY: Each lot created through subdivisions must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by Winona County shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat,

- presence of significant historic sites or any other feature of the natural land likely to be harmful to the health safety or welfare of future residents of the proposed subdivision or of the community.
2. CONSISTENCY WITH OTHER CONTROLS
    - a. Subdivisions must conform to all official controls of Winona County.
    - b. 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.
    - c. 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 Chapter 13 can be provided for every lot.
    - d. Each lot shall meet the minimum lot size and dimensional requirements of Chapter 13 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.
    - e. Lots that would require the use of holding tanks must not be approved.
  3. INFORMATION REQUIREMENTS: Sufficient information must be submitted by the applicant for the Planning Commission to make a determination of land suitability. The information shall include at least the following:
    - a. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
    - b. The surface water features as described in Minnesota Statutes, Section 505.02, 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 runoff and erosion, both during and after construction activities.
    - e. Location of one hundred (100)-year floodplain areas and floodway districts from existing adopted maps or data.
    - 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 five (5) or more lots or parcels that are two and a half (2.5) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit/certificate 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 nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 11.3.7(3).

#### 11.3.10 General Regulations

Developments in the shoreland area in Winona County shall also conform to Chapter 9, Performance Standards, of the Winona County Zoning Ordinance.

#### 11.3.11 Additional Notification Procedures: Variances, Conditional Uses & Amendments.

1. A copy of the notice of a public hearing to consider a variance to the provisions of the Shoreland Overlay District or a conditional use in the Shoreland Overlay District shall be sent to the Commissioner of Natural Resources or designee, such that the notice is received by either party at least ten (10) days prior to such hearings.
2. A copy of all amendments to this Ordinance and final decisions granting variances or conditional uses within the shoreland overlay district shall be sent to the Commissioner of Natural Resources or designee within ten (10) days of the amendment or final action.

### 11.4 Floodplain

### FLOODPLAIN

#### 11.4.1 Floodplain Statutory Authorization, Findings of Fact and Purpose

1. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Minnesota Statutes Chapter 394 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the County Board of Commissioners of Winona County, Minnesota does ordain as follows:
2. Findings of Fact:
  - a. The flood hazard areas of Winona County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment

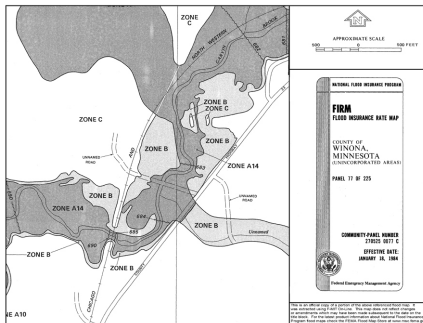


Figure 11.4 Floodplain Insurance Rate Map (FIRM)

of the tax base, all of which adversely affect the public health, safety, and general welfare.

- b. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
  - c. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
3. Statement of Purpose: It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in Section 11.1 by provisions contained herein.

### 11.4.2 Administration

1. 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.
2. 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 floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
3. NOTIFICATION OF WATERCOURSE ALTERATIONS: The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
4. NOTIFICATION TO FEMA WHEN CHANGES WILL INCREASE OR DECREASE THE 100 YEAR FLOOD ELEVATION: As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
5. NATIONAL FLOOD INSURANCE PROGRAM: The Planning Department shall make a good faith attempt to educate citizens of

the county of the this Ordinance and the National Flood Insurance Program including the Increase Cost of Compliance provisions.

#### 11.4.3 General Provisions

1. This Ordinance shall apply to all lands within the jurisdiction of Winona County shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
2. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for Winona County prepared by the Federal Emergency Management Agency dated July 18, 1983, and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated January 18, 1984 therein. The Official Zoning Map shall be on file in the Office of the Winona County Auditor and the Winona County Planning Department.
3. The regulatory flood protection elevation shall be 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 floodplain that result from designation of a floodway.
4. 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 the County Board of Commissioners 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 one hundred (100) year flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the one hundred (100)-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
5. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions

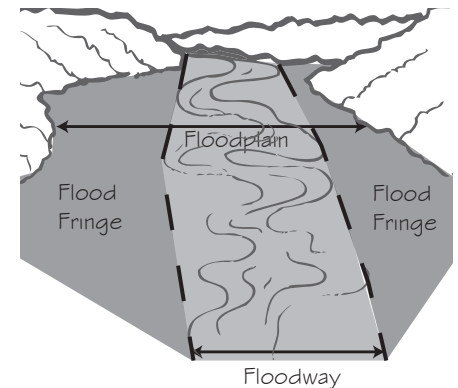


Figure 11.5 The floodplain is a risky environment to build in as major storms and flash floods can cause flooding that rises higher than the 100-year elevation.

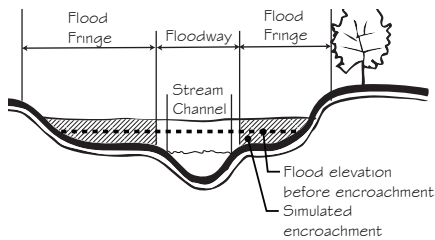


Figure 11.6 Floodplain Encroachment Areas

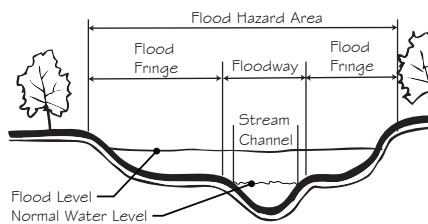


Figure 11.7 Parts of the Riverine Floodplain

of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

6. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may increase by man-made or natural causes. This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Winona County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
7. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

### 11.4.4 Establishment of Zoning Districts

#### 1. Districts:

- a. **Floodway District:** The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 11.4.3(2).
  - b. **Flood Fringe District:** The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 11.4.3(2).
  - c. **General Floodplain District:** The General Floodplain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 11.4.3(2) and those areas designated as Zones A1-30, A0, or AH on the Flood Insurance Rate Map where a floodway/flood fringe boundary has not been designated on the Flood Boundary and Floodway Map adopted in Section 11.4.3(2).
2. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 11.4.5, 11.4.6, and 11.4.7 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:
    - a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles known as recreational vehicles are subject to the general provisions of this Ordinance and specifically Section 11.4.10.

- b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.4.11.
- 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 Ordinance and specifically as stated in 11.4.2.

#### 11.4.5 Floodway District (FW)

##### 1. Permitted Uses:

- a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Industrial-commercial loading areas, parking areas, and airport landing strips.
- c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- d. Residential lawns, gardens, parking areas, and play areas.
- e. Those uses listed as conditional uses under this district shall be permitted uses if the Minnesota Department of Natural Resources has granted a Public Waters Work Permit that encompasses the scope of work to be completed pursuant to Minnesota Statute 103G 245.

##### 2. Standards for Floodway Permitted Uses:

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

##### 3. Conditional Uses:

- a. Structures accessory to the uses listed in 11.4.5(1).
- b. Extraction and storage of sand, gravel, and other materials.
- c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- d. Railroads, streets, bridges, utility transmission lines, and pipelines.
- e. Storage yards for equipment, machinery, or materials.
- f. Placement of fill or construction of fences.
- g. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium

# Chapter 11

## FLOODPLAIN

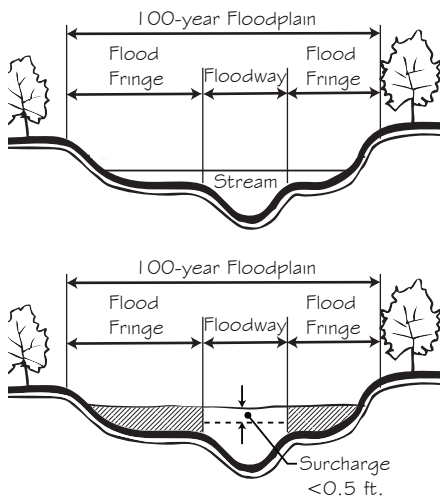


Figure 11.8 Cross section of Floodplain for Filling

type campgrounds, subject to the exemptions and provisions of Section 11.4.10(3).

- h. Structural works for flood control such as levees, dikes and flood walls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten (10)-year frequency flood event.
4. Standards for Floodway Conditional Uses:
- a. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the one hundred (100)-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
  - b. All floodway conditional uses shall be subject to the procedures and standards contained in Chapter 5 of this Ordinance.
  - c. The conditional use shall be permissible in the underlying zoning district if one exists.
  - d. Fill:
    - I. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
    - II. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
    - III. As an alternative, and consistent with Subsection II immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the one hundred (100)-year or regional flood but only after the County Board of Commissioners has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.
  - e. Accessory Structures:
    - I. Accessory structures shall not be designed for human habitation.
    - II. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

- i. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
    - ii. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
  - III. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
    - i. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
    - ii. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
    - iii. To allow for the equalization of hydrostatic pressure, there must be a minimum of two (2) "automatic" openings in the outside walls of the structure having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two (2) sides of the structure and the bottom of all openings must be no higher than one (1) foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- f. Storage of Materials and Equipment:
  - I. 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.
  - II. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the County Board of Commissioners.
  - III. Propane tanks shall be installed at or above the Regulatory Flood Elevation or shall be anchored to prevent flotation, collapse, and lateral movement under flood conditions.
- g. Structural works for flood control that will change the course, current or cross section of protected wetlands or

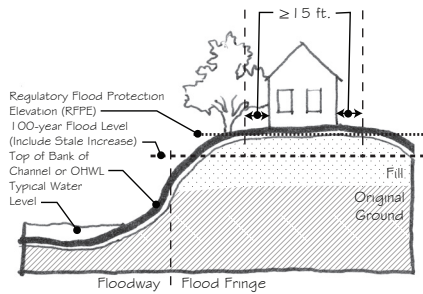


Figure 11.9 Key standards for structures in the flood fringe.

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

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

### 11.4.6 Flood Fringe District (FF)

#### 1. Permitted uses:

- a. Uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 11.4.6(1) and the "Standards for all Flood Fringe Uses" listed in Section 11.4.6(2).

#### 2. Standards for Flood Fringe Permitted Uses:

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
  - b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet at its largest projection may be internally flood proofed in accordance with Section 11.4.5(4)(e) (III).
  - c. The cumulative placement of fill where at any one (1) time in excess of five hundred (500) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 11.4.6(2)(a).
  - d. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
  - e. The provisions of Section 11.4.6(5) shall apply.
3. Any structure that is not elevated on fill or flood proofed in accordance with Section 11.4.6(2)(a) - 11.4.6(2)(b) and or any use of land that does not comply with the standards in Section 11.4.6(2) (c) - 11.5.6(2)(d) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 11.4.6(4)-11.4.6(5) and Chapter 5.



4. Standards for Flood Fringe Conditional Uses:
  - a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
    - I. the enclosed area is above-grade on at least one (1) side of the structure;
    - II. it is designed to internally flood and is constructed with flood resistant materials; and
    - III. it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
      - i. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
      - ii. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
        1. A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
        2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and

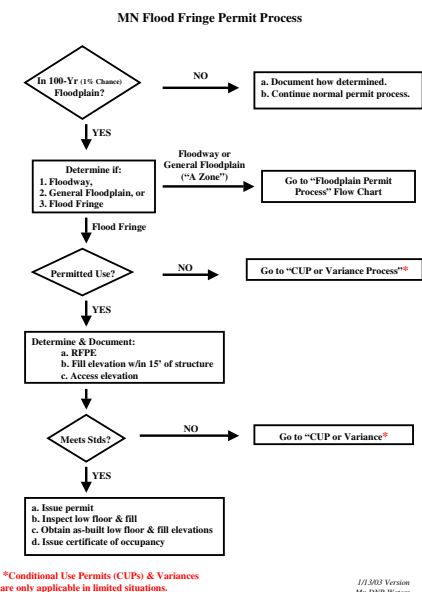


Figure 11.10 Flood Fringe permit process

shall be used solely for building access, parking of vehicles or storage.

- b. Basements shall be subject to the following:
  - I. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - II. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 11.4.6(4)(c).
- c. All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- d. When at any one (1) time more than five hundred (500) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. The Erosion and Sediment Control Plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the one hundred (100) year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the County Board of Commissioners. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- e. Storage of Materials and Equipment:
  - I. 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.
  - II. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the County Board of Commissioners.
  - III. Propane tanks shall be installed at or above the Regulatory Flood Elevation or shall be anchored to prevent flotation, collapse, and lateral movement under flood conditions.
- f. The provisions of Section 11.4.6(5) shall also apply.

5. Standards for All Flood Fringe Uses:

- a. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- b. Commercial and industrial 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/certificate for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
- c. In regards to manufacturing and industrial uses, measures shall be taken to minimize interference with normal plant operations for manufacturing and industrial uses especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 11.4.6(5)(b). In considering permit/certificate applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
- d. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one hundred (100)-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- e. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- f. Standards for recreational vehicles are contained in Section 11.4.10(3).
- g. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation,

collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

### 11.4.7 General Floodplain District

#### 1. Permissible Uses:

- a. The uses listed in Section 11.4.5(1) shall be permitted uses.
- b. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 11.4.7(2). Section 11.4.5 shall apply if the proposed use is in the Floodway District and Section 11.4.6 shall apply if the proposed use is in the Flood Fringe District.

#### 2. Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain District:

- a. Upon receipt of an application for a permit/certificate or other approval within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
  - I. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - II. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
  - III. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
  - IV. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
- b. The applicant shall be responsible to submit one (1) copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural

Resources' Area Hydrologist prior to commencing the analysis.

The designated engineer or expert shall:

- I. Estimate the peak discharge of the regional flood.
- II. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over bank areas.
- III. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than a half (1/2) foot. A lesser stage increase than a half (1/2) foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

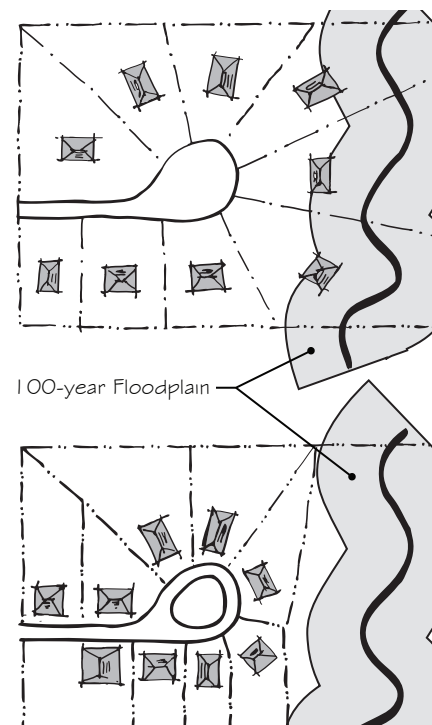
- c. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the County Board of Commissioners. The County Board of Commissioners or designee must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit/certificate application. The County Board of Commissioners or designee, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the County Board of Commissioners shall refer the matter back to the Zoning Administrator who shall process the permit/certificate application consistent with the applicable provisions of Sections 11.4.5 and 11.4.6.

#### 11.4.8 Subdivision of Land: For Residential Development

1. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the Floodplain District shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation. For all subdivisions in the Floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
2. In the General Floodplain District, applicants shall provide the information required in Section 11.4.7(2) to determine the one hundred (100)-year flood elevation, the Floodway and Flood Fringe

Figure 11.11 Floodplain development where all land is subdivided into lots, some home sites and lots are partially or entirely in the floodplain.

**Not Recommended**



**Recommended**

Figure 11.12 Floodplain land put into public/common open space, net density remains, lot sizes reduced and setbacks modified to keep home sites on high ground.

# Chapter 11

## FLOODPLAIN

MN Floodplain Permit Process

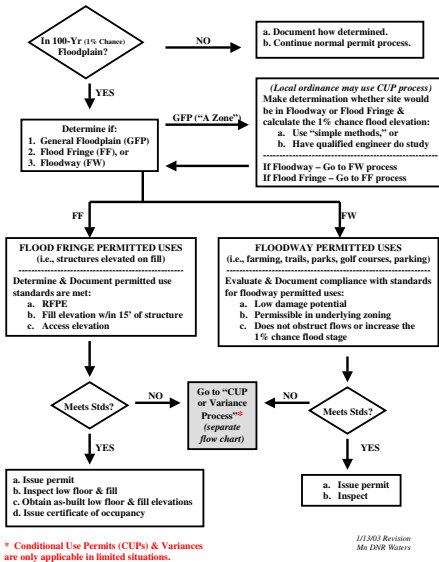


Figure 11.13 Floodplain Permit Process

MN Floodplain Permit CUP & Variance\* Process

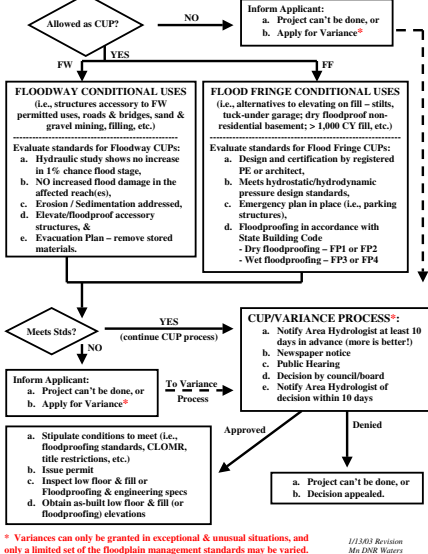


Figure 11.14 Floodplain Permit CUP & Variance Process

District boundaries and the regulatory flood protection elevation for the subdivision site.

- 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 one hundred (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.

### 11.4.9 Public and Private Utilities, Railroads, Roads, Bridges

- All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 11.4.5 and 11.4.6. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

- Where public utilities are not provided:
  - On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
  - 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.

### 11.4.10 Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles

- New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 11.4.8.
- The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in Floodplain Districts will be treated as a new structure and may be placed only if elevated in compliance

with Section 11.4.6. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 11.4.6(5)(a), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to Winona County.

- a. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
3. Recreational vehicles that do not meet the exemption criteria specified in Section 11.4.10(3)(a) shall be subject to the provisions of this Ordinance and as specifically spelled out as follows:
- a. Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 11.4.10(3)(b) below and further they meet the following criteria:
    - I. Have current licenses required for highway use.
    - II. 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 recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
    - III. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
  - b. Areas Exempted For Placement of Recreational Vehicles:
    - I. Individual lots or parcels of record.
    - II. Existing commercial recreational vehicle parks or campgrounds.
    - III. Existing condominium type associations.
  - c. Recreational vehicles exempted in Section 11.4.10(3)(a) lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 11.4.5 and 11.4.6. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
  - d. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use

exceeding five (5) units or dwelling sites shall be subject to the following:

- I. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 11.4.6(5)(a). No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the one hundred (100)-year or regional flood.
- II. All new or replacement recreational vehicles not meeting the criteria of (I) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Chapter 5. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the one hundred (100)-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 11.5.6(3)(a)(1) and 11.4.6(3)(a)(11) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 11.4.9(3).

### 11.4.11 Non-conforming 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. Historic structures shall be subject to the following provisions:
  - a. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
  - b. Any structural alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 11.4.11(1)(c) and 11.4.11(1)(f).
  - c. The cost of all structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed fifty (50) percent of the tax assessment value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include



all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must meet the standards of Section 11.4.5 or 11.4.6 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

- d. If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The County Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses that have been discontinued for a period of twelve (12) months.
- e. If any non-conforming use or structure is substantially damaged it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 11.4.5, 11.4.6, and 11.4.7 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Floodplain District, respectively.
- f. If a substantial improvement occurs from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 11.4.5 or 11.4.6 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

#### 11.4.12 Penalties for Violation

1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
2. Nothing herein contained shall prevent Winona 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 Winona County may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits/certificate, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as

## Wetland Types

Type 1: seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season.

Type 2: inland fresh meadows in which soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of the surface.

Type 3: inland shallow fresh marshes in which soil is usually waterlogged early during a growing season and often covered with as much as six inches or more of water.

Type 4: inland deep fresh marshes in which soil is usually covered with six inches to three feet or more of water during the growing season.

Type 5: inland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and is fringed by a border of emergent vegetation similar to open areas of type 4 wetland.

Type 6: shrub swamps in which soil is usually waterlogged during growing season and is often covered with as much as six inches of water.

Type 7: wooded swamps in which soil is waterlogged at least to within a few inches of the surface during growing season and is often covered with as much as one foot of water.

Type 8: bogs in which soil is usually waterlogged and supports a spongy covering of mosses. This type occurs mostly in shallow basins, on flat uplands, and along sluggish streams.



Figure 11.15 Type Four Wetland

not to jeopardize its eligibility in the National Flood Insurance Program.

- b. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources officials and the Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

## 11.4.13 Amendments

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

All amendments to the Floodplain Section, 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 an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

## 11.5 Wetlands

The Minnesota Legislature adopted the Wetland Conservation Act (WCA) in 1991 to achieve a goal of no net loss of Minnesota's remaining wetlands by protecting wetlands not protected under MNDNR's public waters permit program.

The Wetland Conservation Act recognizes a number of wetland benefits deemed important, including:

- Water quality, including filtering pollutants out of surface water and groundwater, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging groundwater supplies;
- Floodwater and stormwater retention, including reducing the potential for flooding in the watershed;

- Public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas;
- Commercial benefits, including wild rice and cranberry growing areas and aquaculture areas;
- Fish and wildlife benefits; and
- Low-flow augmentation during times of drought.

Wetlands in Minnesota may be regulated under a variety of local, state and federal programs. Oftentimes two or more of these programs cover the same wetland. In some cases, various portions of the same wetland will be regulated by different programs. Winona County is the delegated Local Government unit responsible for administration of wetlands located within Winona County.

#### 11.5.1 Regulated Wetlands - WCA

1. The WCA applies to all wetlands, except public waters wetlands shown on MNDNR's inventory maps.
2. Calcareous fens, a rare type of wetland, are regulated under the WCA but the responsibility for their protection is assigned to the MNDNR. Any alteration to a calcareous fen must be approved by the MNDNR Commissioner as specified in a management plan.
3. In contrast to public waters wetlands regulated under the Public Waters Permits Program, there is no comprehensive inventory or map of wetlands regulated by the WCA, although the NWI maps prepared by the U.S. Fish and Wildlife Service provides some general indication of the location and type of wetlands.

#### 11.5.2 Performance Standards

1. The entire extent of wetlands shall not be altered, regraded, filled, piped, diverted, or built upon except where state, and/or federal permits have been obtained.
2. Development must be set back a minimum of one hundred (100) feet from the delineated edge of any wetland.

### 11.6 Steep Slopes / Bluffs

#### 11.6.1 Performance Standards for Development within Steep Slopes/Bluffs

1. Proposed Development, including all structures and driveways that occurs on slopes greater than twelve (12) percent are required to submit a site plan created by a Licensed Engineer or a Professional Geologist or other qualified individual that has experience in building, earth work, and soil erosion control which is deemed acceptable to Winona County Planning Department and Winona County SWCD.
2. Proposed Development including all structures and driveways that occurs within slopes between eighteen (18) percent and twenty

### STEEP SLOPES / BLUFFS

# Chapter 11

## ARCHAEOLOGICAL SITES AND BURIAL GROUNDS

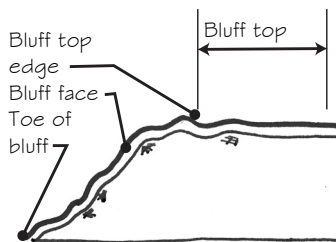


Figure 11.16 Bluff Features

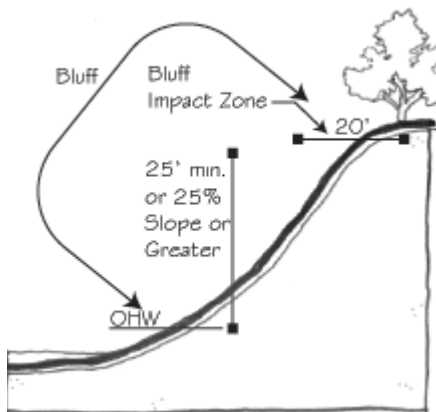


Figure 11.17 Bluff and Bluff Impact Zone relationship diagram.

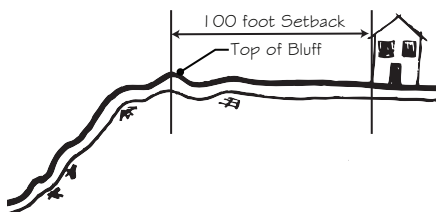


Figure 11.18 Bluff Setback

five (25) percent shall be allowed only by a Conditional Use Permit. Driveways shall be constructed to standards in Chapter 9.

3. Developments and other land disturbing activities are prohibited on slopes over twenty five (25) percent. Such slopes shall be preserved in their natural state.
4. Proposed Development including all structures and driveways are prohibited between the toe and the top of the Bluff, as defined in Chapter 4.
5. A one hundred (100) foot setback shall be observed from the top of the bluff of all bluffs which have a total height of one hundred (100) feet or more as measured from the toe of the bluff to the top of the bluff. This setback shall pertain to all structures and impervious surfaces.
6. Timber Harvesting and selective cutting for approved forest management purposes shall be conducted in accordance with performance standards in Chapter 9.
7. Properties containing woodlands shall not disturb more than one (1) acre of the woodlands for altering, regrading, clearing or building except as specifically provided in an approved land disturbance permit.

### 11.6.2 Vegetative Screening Standards

1. In circumstances where insufficient screening exists, a restoration plan to provide adequate screening may be required by the Planning Department.
2. Within the top of the bluff setback, and the bluff impact zone, intensive vegetative clearing is not permitted except for public services, such as public roads and utilities only when the applicant shows the necessity for clearing of vegetation.
3. The provisions listed above shall not prohibit the restoration or management of forests and natural plant communities, the removal of trees seriously damaged by storms or other acts of nature, or hinder measures taken to control tree species that are diseased or exotic.
4. Should the removal of vegetation be required, site restoration activities shall provide for the planting of new trees with the intent of replacing screening values.

### 11.6.3 Mississippi River Bluffs (MRB)

This section is established to protect and enhance the intrinsic natural and scenic qualities of the bluffs along the Mississippi River. The Mississippi River Bluffs shall be all bluffs located within one (1) mile of the center median of Minnesota Highway 61. The following performance standards are to be followed in addition to sections 11.6.1 and 11.6.2.

### 11.6.4 Additional Performance Standards for Development

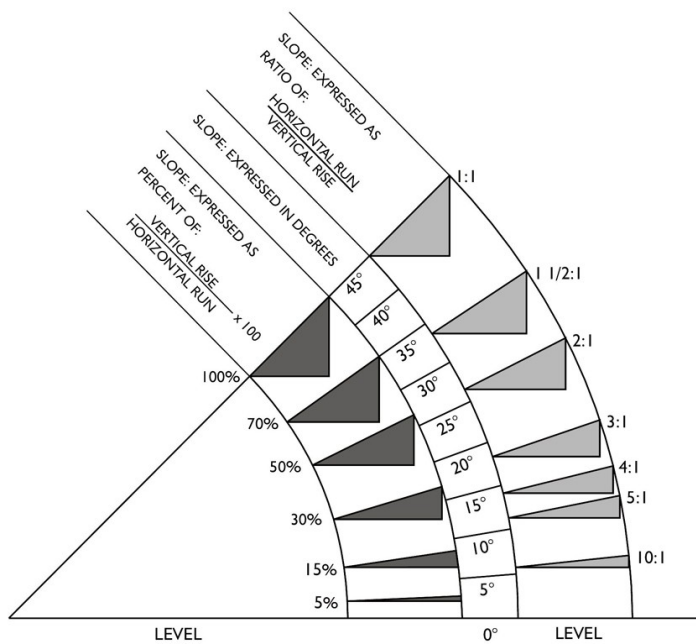


Figure 11.19 Method of describing slope as found in typical planning and design reference materials.

within the (MRB)

1. Proposed building activities including all structures and driveways that occurs within slopes between twelve (12) percent and eighteen (18) percent shall be allowed only by a Conditional Use Permit.
2. Developments and other land disturbing activities are prohibited on slopes over eighteen (18) percent. Such slopes shall be preserved in their natural state.
3. Proposed development within three hundred (300) feet of the top of the bluff will require a Conditional Use Permit.

#### 11.6.5 Additional Standards for Conditional Use Permits required under Sections 11.6.1 and 11.6.3

1. Proposed developments shall be aligned and sited to fit the natural topography to take advantage of existing vegetation and land form screening.
2. Proposed developments shall use the most minimal amount of grading or other modifications of land forms, vegetation cover and natural features.
3. Exterior lighting located on the parcel shall not exceed a total overall height of eight (8) feet and shall be directed toward the ground.
4. The exterior color of proposed structures, including roofs shall be of earth tone color.
5. The exterior material of proposed structures shall be non reflective.
6. To promote structural design which fits existing site conditions, excessive land disturbance for the creation of structural building envelopes shall be avoided.

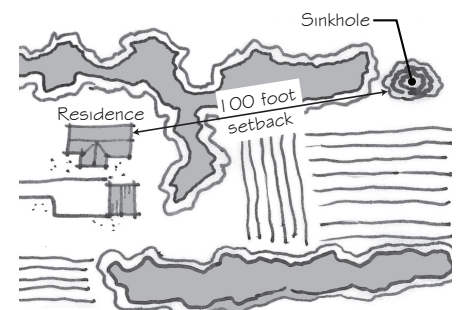


Figure 11.19 Sinkhole Setback

## KARST

7. Proposed development shall have a total building height of no more than thirty five (35) feet.
8. Viewshed analysis shall be employed as an evaluation tool to be considered as part of the decision making process.

### 11.7 Karst Features

#### 11.7.1 Performance Standards

1. The dumping of refuse, garbage, sewage, barnyard waste, carcasses, chemicals, hazardous waste in sinkholes is prohibited.
2. The primary or initial responsibility of cleaning up sinkholes shall fall on the party or parties who have deposited or who are depositing prohibited materials into a sinkhole. In the event that a primary or initial responsible party cannot be determined, it shall be the responsibility of the land occupier to clean up the sinkholes on the property owned by the land occupier.
3. Proposed dwellings and/or accessory structures must maintain a setback of one hundred (100) feet from any known sinkhole, if the sinkhole has been grouted using approved SWCD methods to complete such activity the setback is not required.
4. Proposed septic drainfields and tanks must maintain a setback of one hundred (100) feet from any known sinkhole.
5. Stormwater should be diverted away or around any known sinkhole.

## ARCHAEOLOGICAL SITES AND BURIAL GROUNDS

### 11.8 Archaeological Sites and Burial Grounds

#### 11.8.1 Purpose

Winona County has a diversity of cultural and historic resources commonly associated with the varied terrain of the Upper Midwest. These resources reflect upon the strong Native American heritage of the area as well as early pioneer settlements, and are highly valued by residents and visitors alike. Despite the long history of continued human existence, not all historic resources are easily visible or discernible across the landscape, as Winona County possesses significant archaeological assets. Winona County placed the following policies in this Ordinance as a means to preserve the sanctity of these archeological assets.

#### 11.8.2 Requirements

This section pertains to areas of Winona County indicated as being of high archeological probability as shown on the Zoning Maps of Winona County.

These areas typically comprise of the following Winona County geographic features: upland terraces or bluff tops within one thousand (1,000) feet from the terrace or bluff edge; terraces within five hundred (500) feet of rivers and streams; terraces above floodplains; lower terraces back to the toes of bluffs with views of rivers and streams; and isolated hilltops with good views of the surrounding landscape.

The predictive model produced by the Minnesota State Archaeologist for Winona County portrays these features as having the greatest likelihood of containing archaeological sites and unplatted burials especially for locations in the Mississippi River Valley.

1. A Phase One Archaeological Survey shall be required:
  - a. when land is proposed to be converted from agricultural and natural resource uses to residential, commercial, or industrial uses;
  - b. when more than one (1) acre of land is disturbed, except agricultural crop lands including timber harvesting activities;

The scope of the study area shall include land located within one hundred fifty (150) feet from the limits of any proposed ground disturbing activity and end at the property line of the applicant.

2. An Archaeological Assessment shall be required:
  - a. when a Development Certificate is required for a proposed structure of one thousand (1000) square feet or more;
  - b. when a Land Alteration Permit is required.

The scope of the assessment shall include land within one hundred fifty (150) feet from the limits of any proposed ground disturbing activity and end at the property line of the applicant.

3. The Planning Department shall forward a notice of the Phase One Survey or the Archaeological Assessment to the Shakopee Mdewakanton Sioux Community, the Prairie Island Indian Community, the Lower Sioux Indian Community, the Sisseton Wahpeton Oyate, the Minnesota Indian Affairs Council, and the Minnesota State Archaeologist. The notice shall include the name of the qualified professional archaeologist conducting the survey and a site plan showing the location and scope of the proposed development.
4. Burials, graves, and cemeteries located outside of platted, recorded, or identified cemeteries shall be protected from unauthorized disturbance, authenticated by the State Archaeologist, and subject to all the provisions of Minnesota State Statutes 307.08 (Minnesota Private Cemeteries Act). Once identified, all land disturbances and development activities shall have a minimum setback of fifty (50) feet from burials, graves, and cemeteries or site-specific setbacks as determined by the State Archaeologist. The Phase One Survey or the Archaeological Assessment may reveal the necessity to conduct further archaeological reviews to verify the extent of the historical component, subsequently; the applicant may choose to forgo additional studies and amend their site plan to avoid identified archaeological sites and unplatted burials.
5. Upon completion of the Phase One Survey or the Archaeological Assessment, report copies shall be provided to the Shakopee

## Highlights from the Winona County Comprehensive Plan:

### Sustainability Value Statement

Winona County promotes a sustainable community through the encouragement of sustainable development. A sustainable community uses its resources to meet current needs while ensuring that adequate resources are available for future generations. A sustainable community seeks a better quality of life for all its residents while maintaining nature's ability to function over time by minimizing waste, preventing pollution, promoting efficiency and developing local resources to revitalize the local economy. Decision-making in a sustainable community stems from a rich civic life and shared information among community members. A sustainable community resembles a living system in which human, natural and economic elements are interdependent and draw strength from each other.

Mdewakanton Sioux Community, Prairie Island Indian Community, the Lower Sioux Indian Community, the Sisseton Wahpeton Oyate, Minnesota Indian Affairs Council, and the Minnesota State Archaeologist for their review and comment. Upon receipt of the study report, the Tribes shall have thirty (30) calendar days to respond. The Planning Department shall consider the recommendations described in the study report as well as the Tribal comments before issuing permits/certificates.

6. The Planning Department considers applications incomplete until the necessary archaeological review is finished.



Wah-be-sha Village on the Mississippi River 650 Miles above St. Louis, watercolor by Seth Eastman, 1845. (Minnesota Historical Society)

Figure 11.20 Image taken from Myron A. Nilles 'A History of Wapasha's Prairie'.



## CHAPTER 12: RENEWABLE ENERGY

### 12.1 Purpose

The purpose of the Chapter is to promote the installation and construction of renewable energy systems throughout Winona County to ensure residents have the access to affordable, efficient, reliable, and environmentally sound energy options. The provisions contained in this Chapter have the function through reasonable restrictions and standards, to preserve the public health and safety without significantly increasing the cost or decreasing the efficiencies of renewable energy system, and to protect esthetic resources within the County. The types of systems covered in this chapter include Wind Energy Conversion Systems (WECS), Solar energy Systems, and Geothermal Energy Systems.

**All WECS installations shall comply with State and Federal Rules**

### 12.2 Wind Energy Conversion Systems (WECS)

Establish regulations relating to the installation and operation of public and private Wind Energy Conversion Systems (WECS) within Winona County Zoning authority not otherwise subject to siting and oversight by the State of Minnesota under applicable State Statutes.

#### 12.2.1 Procedures

WECS, public and/or private based upon total kW output, require a Development Certificate located in Chapter 6, or a Conditional Use Permit and shall be applied for and reviewed under the procedures established in Chapters 5 and 6.

The application for all WECS shall include the following information in addition to the requirements of the Development Certificate located in Chapter 6:

1. Recorded property easements.
2. A description of the project including: number, type, tower height, rotor diameter, and total height of all wind turbines.
3. Site layout, including the location of property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures.

The application for WECS larger than 100 kW shall also include the following information in addition to the requirements of the Development Certificate located in Chapter 6:

1. The latitude and longitude of individual wind turbines.
2. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.
3. Location of wetlands, floodplain, shoreland, sensitive natural features, scenic and natural areas, including bluffs, within quarter (1/4) mile of the proposed WECS.
4. Engineer's certification.

Table 12.2 Zoning Districts Key	
<b>A/RC</b>	Agricultural Resource Conservation
<b>RR</b>	Rural Residential
<b>CD/CD2</b>	Community Development
<b>UR</b>	Urban Residential
<b>B</b>	Business and Recreation
<b>I</b>	Industrial

Table 12.3 WECS Permit Key	
<b>DV</b>	Development Certificate
<b>CUP</b>	Conditional Use Permit

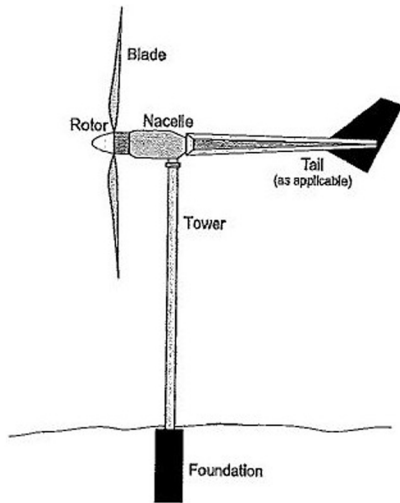


Figure 12.1 WECS Parts Identified

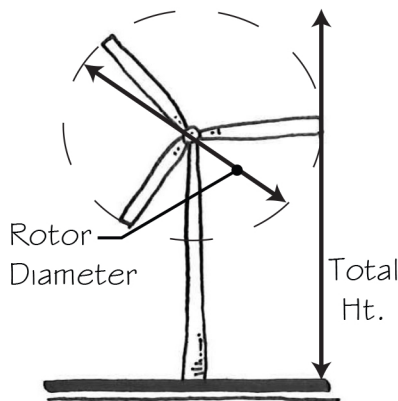


Figure 12.2 WECS Dimensions

5. Location of all known Communications Towers within two (2) miles of the proposed WECS.
6. Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost of removing the WECS shall be estimated by a competent party; such as a Professional Engineer, a contractor capable of decommission or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities, in the form of a bond, or a line of credit, or cash deposit in an amount one hundred and five (105) percent of the total decommission cost.
7. Mitigation plan, in reference to public infrastructure for construction and decommissioning.
8. Plan for on-site storage of materials, if applicable.

### 12.2.2 Conditional Use Permit

Section 5.5.4.6 of Chapter 5 of this Ordinance describes the procedure for obtaining a Conditional Use Permit for ECS larger than 100 kW.

### 12.2.3 Aggregated Projects - Procedures

Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews and as appropriate approvals. Development Certificates will be issued and recorded separately.

Joint applications will be assessed fees as one (1) project. Aggregated projects having a combined capacity equal to or greater than the threshold for State oversight as set forth in MS Statutes shall be regulated by the state of Minnesota.

### 12.2.4 District Regulations

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in Table 12.1.

Table 12.1 WECS Generating Capacity & Land Use District			
Zoning District	WECS 100kW and smaller	WECS larger than 100kW	Meteorological Tower
A/RC-RH	DV	CUP	DV
RR	DV	CUP	DV
CD/CD2	DV	CUP	DV
UR	DV	CUP	DV
B	DV	CUP	DV
I	DV	CUP	DV
Shoreland	CUP	CUP	CUP
Floodplain	CUP	CUP	CUP

**12.2.5 Performance Standards**

**1. Setbacks:**

\*measured from the center of the tower base:

- a. WECS larger than 100 kW: 1.1 times the total height from all Meteorological Towers and property lines.
- b. WECS 100kW and smaller: 1.1 times the total height from property lines.
- c. Road Right of Ways: 1.1 times the total height from all Wind Turbines and Meteorological Towers.
- d. Other above ground right of ways (railroad, utility lines, gas lines, etc.): 1.1 times the total height from all WECS and Meteorological Towers.
- e. Wetlands USFW Types III, IV, and V: 1.1 times the total height from all WECS and Meteorological Towers.
- f. Bluffs: WECS 100 kW and smaller: two (2) times the total height of turbines from the top or toe of a bluff.

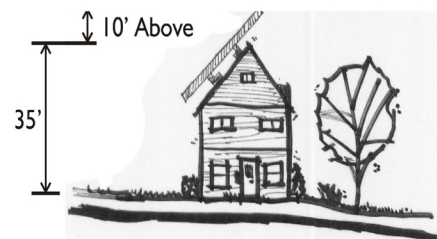


Figure 12.3 Roof Mounted Solar Energy Systems Height

Table 12.4 WECS Setbacks			
	WECS 100kW and smaller	WECS larger than 100kW	Meteorological Tower
Property Lines	1.1 th*	1.1 th	1.1 th
Road Right of Ways	1.1 th	1.1 th	1.1 th
Other above ground Right of Ways (railroad, utility gas lines)	1.1 th	1.1 th	1.1 th
Wetlands USFW Types III, IV, and V	1.1 th	1.1 th	1.1 th
Bluffs	2 times the total height of turbine from top or toe of bluff	Review through CUP process (see chapter 5)	N/A

\* "th" is an abbreviation for 'Total Height'

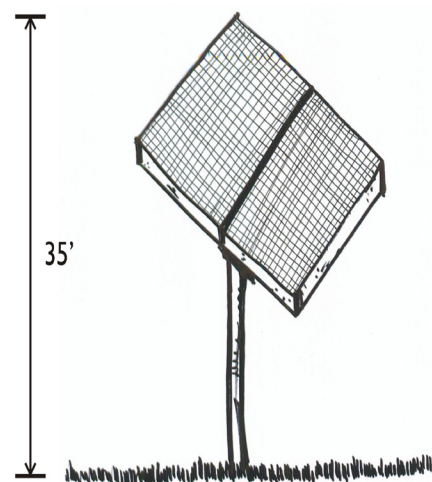


Figure 12.4 Ground Mounted Solar Energy Systems Height

**2. Safety Design Standards:**

- a. For all WECS larger than 100 kW, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
  - b. Rotor blades or air foils must maintain at least sixteen (16) feet of clearance between their lowest point and the ground.
3. Design Standards
- a. Finishes shall be matte or non-reflective.
  - b. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.
  - c. The manufacturer's or owner's company name and logo, relating to the WECS, may be placed on the nacelle, tail or the compartment containing the electrical generator of the WECS. No off site advertising may be placed, attached, or hung upon the nacelle, tower, blades, or upon a substation.
  - d. All communications and feeder lines, less than or equal to 34.5 kV in capacity and installed as part of a WECS shall be buried where reasonably feasible.
  - e. WECS larger than 100kW shall be anchored to objects that have been approved by the manufacture of the WECS. If an alternative mounting structure is desired, a statement from a licensed structural engineer shall be submitted to Winona County stating that the WECS can be safely mounted to an alternative structure.
  - f. WECS larger than 100kW shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to Winona County outlining the steps and schedule for returning the WECS to service.

### 12.2.6 Interference

The applicant of WECS larger than 100kW shall notify all communication tower operators registered with the Federal Communication Commission (FCC) within five (5) miles of the proposed WECS location upon application to the County for permits to construct the WECS.

### 12.2.7 Avoidance and Mitigation of Damages to Public Infrastructure

Applicants of WECS larger than 100kW shall:

1. Identify all county, city, or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation, or maintenance of

the WECs and other applicable weight and size permits from the impacted road authorities prior to construction.

2. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, or maintenance of the WECS.

### 12.3 Solar Energy Systems

Solar Energy Systems are a permitted accessory use in all zoning districts, subject to the following standards.

1. Height
  - a. Building or roof mounter Solar Energy Systems shall not exceed ten (10) feet above the highest portion of the building.
  - b. Ground-mounted Solar Energy Systems shall not exceed thirty five (35) feet in overall height.
2. Location within lot. Solar Energy Systems must meet the accessory structure setback for the zoning district.
  - a. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted Solar Energy Systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
  - b. 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.
  - c. Large Ground-mounted Systems. In the A/RC Ground-mounted Solar Energy Systems that result in the creation of one (1) or more acres of impervious surface must:
    - I. Apply for a Conditional Use Permit and,
    - II. Follow MPCA Stormwater Standard
3. No owner, occupier or person in control of property shall allow vegetation or structures to be placed or grow so as to cast a shadow on a Solar Energy System which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard Time on December 21 provided, however, this standard shall not apply to vegetation existing at the time of installation of said Solar Energy System.
  - a. Violation of this standard shall constitute a private nuisance and any owner or occupant whose solar energy system is shaded because of such violation, so that performance of the system is impaired, may have in tort for damages sustained thereby and may have such nuisance abated.
  - b. As a means of evidencing existing conditions, the owner of a Solar Energy System may file notarized photographs of the affected area with the County prior to installation of said system.

### 12.4 Geothermal Energy Systems

Geothermal Energy Systems are allowed in all zoning districts, subject to the following standards.

#### 12.4.1 Land Disturbance Permit

A Land Disturbance Permit, located in chapter 6, is required for the following situations when installing a Geothermal Energy System:

- a. When there is to be excavation or filling of land that would deprive an adjoining property owner of lateral support.
- b. When there is to be excavation of earthen material of more than one thousand (1,000) cubic yards, for the installation of a geothermal heat pump station.
- c. When there is to be excavation of earthen material, for the installation of a geothermal heat pump system located within Shoreland, Floodplain, or on steep slopes as described in Chapter 11.

## CHAPTER 13: SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS)

### 13.1 Intent

This Chapter authorizes and provides for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

1. Minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Mid-sized Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered, incorporated and unincorporated areas of Winona County incorporating by reference minimum standards established by Minnesota 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 Minnesota Rules, Chapters 7080 and 7081 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.
7. Standards which promote the health, safety and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the Winona County Comprehensive Plan and the Winona County Zoning Ordinance.

### 13.2 Purpose and Intent

- A. The purpose of this ordinance is to establish minimum requirements for regulation of ISTS and MSTS 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.
- B. It is intended by the County that this Chapter will promote the following:
  - a. The protection of lakes, rivers and streams, wetlands, and groundwater in Winona County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
  - b. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
  - c. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered,

the identification and control of its consequences and the abatement of its source and migration.

- d. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- e. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

## 13.3 Authority

This Chapter is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Sections 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082,, or successor rules.

## 13.4 General Provisions

### 13.4.1 Scope

This Chapter regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in any 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.

### 13.4.2 Jurisdiction

The jurisdiction of this Chapter shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their

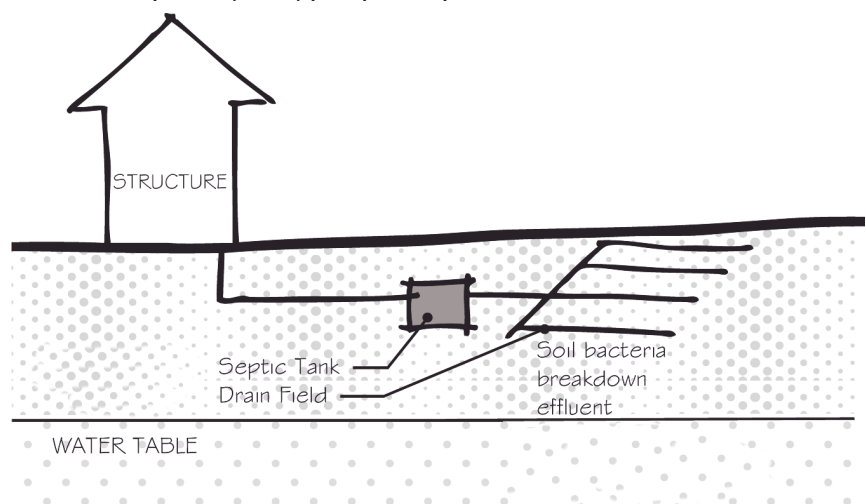


Figure 13.1 Septic system diagram



incorporated jurisdiction, which is at least as strict as this Chapter and has been approved by the County. The County Planning Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

As of March 1, 2009, the County administers the SSTS program for all nineteen (19) townships. Additionally, an agreement has been signed by all thirteen (13) cities/ incorporated municipalities located within the county for SSTS administration, which includes the cities of Altura, Dakota, Elba, Goodview, LaCrescent, Lewiston, Minneiska, Minnesota City, Rollingstone, St. Charles, Stockton, Utica and Winona.

#### 13.4.3 Administration

- A. County: The County Planning Department shall administer the SSTS program and all provisions of this Chapter. At appropriate times, the County shall review this and revise and update this Chapter as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.
- B. State of Minnesota: Where a single SSTS or group of SSTS under single ownership within one-half (0.5) mile of each other, have a design flow greater than ten thousand (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 (7) day period which equals or exceeds ten thousand (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 Chapter.

- C. Cities and Townships: Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Chapter. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Chapter.

#### 13.4.4 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.

#### 13.4.5 Liability

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

by reason of standards, requirements, or inspections authorized hereunder.

### 13.5 General Requirements

#### 13.5.1 Retroactivity

- A. All SSTS: Except as explicitly set forth in 13.6.1(B), all provisions of this Chapter shall apply to any SSTS regardless of the date it was originally permitted.
- B. Existing Permits: Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership whichever is earlier.
- C. SSTS on Lots Created after January 23, 1996: All lots created after January 23, 1996 with the intention of constructing a structure or other use which would generate sewage, must have a minimum of two (2) soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

#### 13.5.2 Upgrade, Repair, Replacement, and Abandonment

- A. SSTS Capacity Expansions: Expansion of an existing SSTS may include upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.
- B. Bedroom Additions: The owner is allowed five (5) years from the date of a bedroom addition to upgrade, repair, replace, produce a SSTS Certificate of Compliance, or abandon an existing system if any of the following conditions apply:
  - a. The Planning Department issues a Development Certificate that would be for the addition of a bedroom.
  - b. A SSTS inspection is triggered by a Development Certificate that would be for the addition of a bedroom request.
  - c. No official County records exist for the sewer system at the site.
  - d. The SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.
  - e. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.A.
  - f. Creation of an additional bedroom.
- C. Failure to Protect Groundwater: An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within two (2) years of receipt of a SSTS Notice of Non-compliance.

- D. Imminent Threat to Public Health or Safety: An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten (10) months of receipt of a Notice of Non-compliance.
- E. Abandonment: Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, Chapter 7080.2500.

### 13.5.3 SSTS in Floodplains

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

### 13.5.4 Class V Injection Wells

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

### 13.5.5 SSTS Practitioner Licensing

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700. Winona County Planning Department may require any person seeking any exemption listed in 7083.0700 to attend MPCA certified SSTS construction training and/or sign and have on record at the Planning Department an agreement indemnifying the county against claims due to the failure of the landowner to comply with any provision of this Chapter.

### 13.5.6 Prohibitions

- A. Occupancy or Use of a Building without a Compliant SSTS: It is unlawful for any newly proposed or conversion of an existing building for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Chapter.
- 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 Chapter 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 Minnesota Rules, Chapter 4725.2050, or any other excavation in the ground that is not in compliance with this Chapter.
- D. Discharge of Hazardous or Deleterious Materials: It is unlawful for any person to discharge into any treatment system regulated under this Chapter any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or ground water quality.

### 13.6 SSTS Standards

#### 13.6.1 Standards Adopted by Reference

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

#### 13.6.2 Amendments to the Adopted Standards

- A. List of Adopted Standards
  - a. Property Owners Conducting Own Work:
    - I. Winona County may require any person seeking any exemption listed in Minnesota Rules, Chapter 7083.0700 to attend MPCA certified SSTS construction training and/or sign and have on record at the Planning Department an agreement indemnifying the county against claims due to failure of the landowner to comply with the provisions of this Ordinance.
    - II. A Property Owner who receives an exemption pursuant to 7083.0700 for the installation of their own individual SSTS, must have a licensed designer prepare a completed County application. Approval of design and issuance of permit shall be required by the County Planning Department prior to any work commencing on said property. Pressurized systems, pre-treatment systems, at-grades or mounds cannot be constructed by anyone other than a licensed installer.
  - b. Other Systems:
    - I. Standards:
      - i. Type III, Type IV or Type V systems shall be allowed only in the event that due to lot constraints, a Type I or Type II system cannot be installed. Systems must be designed and tailored to adequately protect public

- health and the environment based on environmental sensitivity issues associated with the site in question.
- ii. A Type III, Type IV or Type V system must meet the requirements of the standards of either a Type III, Type IV or Type V pursuant to 7080.2300 thru 7080.2400.
  - iii. A project overview containing the monitoring, maintenance and reporting plan shall be prepared by the designer, outlining the expectations of the system, and party(s) responsibility for implementation of the system monitoring, maintenance and reporting.
  - iv. Systems incorporating new technology or products involved with preliminary registration through the MPCA Product Registration Program, shall include additional documentation of the following:
    - 1. How the technology or product must be used and installed according to manufacturer's specifications, how it is expected to perform under those conditions, the anticipated design life, period of any manufacturer's guarantee or warranty, terms of such product replacement, and cost that would bear upon the property owner to remedy the failure should it not meet performance expectations.
    - 2. Pertinent existing data, including in-field testing data of technology or product of same kind installed under similar circumstances.
  - iii. Monitoring, maintenance and reporting plan shall be the responsibility of the Designer, and a legal contract with the property owner shall be submitted along with the SSTS Permit Application detailing those responsibilities.
  - iv. A Mitigation Plan approved by the Planning Department shall be submitted at time of Permit Application, detailing what will be done should the system continue to fail to meet the expectations established within the Monitoring, Maintenance plan.
- c. Land Application of Septage:
- I. Land Spreading Locations and Setbacks: The land spreading site shall be located such that the following minimum separation distances are maintained and spreading shall be in regulated by EPA 40-CFR Part 503 along with the additional following regulations established by Winona County:

<i>Table 13.1 Land Spreading Setbacks and Locations</i>		
<b>Feature</b>	<b>Surface Spread</b>	<b>Injected/Incorporated</b>
Private Water Wells	300 feet	200 feet
Municipal Water Wells	1/4 mile	1,000 feet

*Table 13.1 Land Spreading Setbacks and Locations*

Feature	Surface Spread	Injected/Incorporated
Intermittent Streams/ Dryruns	150 feet	50 feet
Occupied Dwellings	300 feet	200 feet
Residential Districts/ Commercial Developments	600 feet	300 feet
Property Lines	50 feet	25 feet
Public Road Right of Ways	50 feet	25 feet
Recreational Areas	600 feet	300 feet
Recreational Trails	300 feet	200 feet

- II. Setbacks from Surface Waters and Natural Features. Separation distances from surface waters, sinkholes, fractured bedrock outcrops, wetlands and agricultural drainage ditches shall be observed as follows:

*Table 13.2 Setbacks from Surface Waters & Natural Features*

May-October Injection Incorporation	May-October Surface	November-April Surface
50 feet	150 feet	300 feet

- III. SOIL SUITABILITY. To be suitable for land spreading, soil must meet the following criteria:
- i. Have medium or fine surface textures (no sandy or peaty surface textures);
  - ii. Have three (3) foot separation distance to the water table or bedrock;
  - iii. Have six (6) inches of available water holding capacity between the application depth and the water table or bedrock;
  - iv. Be free from flooding hazard; and
  - v. Have at least one (1) horizon in the upper five (5) feet that has a permeability of less than six (6) inches per hour.

IV. Land Application Rates and Methods.

- i. Septage shall be applied in a manner as to disperse septage in a manner that is at an acceptable rate so that runoff does not occur at the disposal site.
- ii. Industrial Waste may not be suitable for land application since this type of waste is not considered septage.

B. Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa entitled "Loading Rates

for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two (2) for SSTS design.

C. Compliance Criteria for Existing SSTS

- a. SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two (2) feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.
- b. SSTS built after March 31, 1996 in Winona County or in areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments; shall have a three (3) foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a fifteen (15) percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp.4

D. Holding Tanks

- a. Standards:
  - I. Installation of holding tanks, the specific conditions under which their use will be allowed are specified in 7082.0100, Subp.3G. All holding tanks shall comply with 7080.2290, items A through F. Further, all owners of holding tanks may be issued an operating permit 7082.0600, Subp.2A, which will include the provisions listed in 7082.0600, Subp.2B, (1) through (8).
  - II. Winona County will prohibit or severely limit the use of holding tanks. Yet, holding tanks are a practical method of handling wastewater for a variety of applications where water use is low such as in seasonal homes, buildings located on sensitive sites, dairy/livestock barns, parks, playgrounds, service station drains, hair salons, etc. However, reliable management, which ensures that the tanks are pumped and the contents are land applied and treated, are hauled to permitted treatment facilities, is a critical and necessary element of holding tank use. Proper management assured, holding tanks offer safe, effective and affordable options for low water use applications.

### b. Holding tank Provisions:

- I. Restrictive Provision: Holding tanks may be allowed as a replacement for an existing & failing SSTS that pose an imminent threat to public health or safety, or for new construction on lots existing as of the date of the enactment of this Ordinance and only where it can be shown conclusively that a standard SSTS permitted under this Ordinance, cannot be feasibly installed
- II. Conditional Provision: Holding tanks may be used for single family homes and other Accessory buildings/ structures with limited water use under the following conditions:
  - i. The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290.
  - ii. The owner may be required to install a water meter to continuously record indoor water use.
  - iii. The owner shall maintain a valid contract with a licensed liquid waste hauler to pump and haul the holding tank to a licensed treatment facility, or land apply in accordance with all local, state and federal requirements.
  - iv. The holding tank shall be regularly pumped, no less frequently than biweekly or other regular schedule agreed upon with the Department.
  - v. The pumper shall certify each date the tank is pumped, the volume of the liquid waste removed, the treatment facility to which the waste was discharged, or land application & treatment records of disposal.

### 13.6.3 Variances

#### A. Affected Agency:

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

Winona County may request a variance from MR Chapter 7082 or public health or environmental protection standards in Chapter 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through Subp. 5 from MPCA. Winona County may approve variances from standards and criteria not listed above on a case-by-case basis pursuant to criteria in Chapter 5 of the Winona County Zoning Ordinance.

The County Board of Adjustment under the advice and recommendations of the Planning Department designee, shall have the authority to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings or other technical standards and requirements



in this Ordinance. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties or particular hardship in meeting the strict letter of this Ordinance. Variance requests to deviate from the design flow determination procedures in Minnesota 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 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 (3) 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.

#### B. General Provisions and Standards

- a. 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:
  - I. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
  - II. A description of the hardship that prevents compliance with the rule;
  - III. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
  - IV. The length of time for which the variance is requested;
  - V. Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance; and
  - VI. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- b. The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted provided that the following five (5) criteria are met along with criteria in Chapter 5 for variances :
  - I. The condition causing the demonstrated hardship is unique to the property and was not caused by the actions of the applicant;
  - II. The granting of the variance will not be contrary to the public interest of damaging to the rights of other persons or to property values in the vicinity;
  - III. The property owner would have no reasonable use of the land without the variance;

- IV. The granting of the variance would not allow a prohibited use; and
  - V. The granting of the variance would be in accordance with Minnesota Rules, Chapter 7080, 7081, and 7082.
- c. 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.
- I. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of the Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
  - II. Any variance granted shall automatically expire if the system is not installed within one (1) year of the grant of the variance or other time frame as established by the Board of Adjustment;
  - III. An appeal from any order, requirement, decision, or determination of the Board of Adjustment in accordance with its policies and procedures.

### 13.7 SSTS Permitting

#### 13.7.1 SSTS Permit Required

It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without a SSTS permit from the Planning Department. The issuing of any permit or variance under the provisions of this Chapter shall not absolve the applicant of responsibility to obtain any other required permit(s) as required by this Ordinance.

#### 13.7.2 SSTS Permit

A 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 a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, constructed and inspected in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

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

or function. SSTS permits shall not be required for the following: repair or replacement of pumps, floats, effluent filters/screens, electrical devices of the pump and alarm, baffles, manholes and risers. All electrical components must satisfy the requirements of Minnesota State Electrical Code.

- C. SSTS Permit Required to Obtain Development Certificate: For any property on which a SSTS permit is required; approval and issuance of a valid SSTS Permit shall be obtained concurrently or before (or as otherwise agreed to in writing) prior to a building or development certificate is issued by the Department.
- D. Conformance to Prevailing Requirements: Any construction activity involving an existing SSTS system that requires issuance of a updated Sewer Permit shall require that the entire SSTS system be brought into compliance with this Ordinance.
- E. Permit Application Requirements: Sewer Permit applications shall be made on forms provided by the Planning Department/MPCA and signed by the property owner and certified SSTS practitioner including the practitioner's certification number and date of expiration. The applications shall include the documents listed in the following items:
  - a. Name, mailing address, telephone number, and email address.
  - b. Property Identification Number and address or other description of property location.
  - c. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730.
  - d. Design Report as described in Minnesota Rules, Chapter 7080.2430.
  - e. Management Plan as described in Minnesota Rules, Chapter 7082.0600.
  - f. A certified statement from the person who conducted the site evaluation and design work.
  - g. On lots created after January 23, 1996, the system design shall include at least one (1) additional designated soil treatment area which can support a standard soil treatment system.
  - h. Any other information requested pertinent to the application process.
- F. Application Review and Response: The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department may issue a sewer permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or initiating any construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application. If the permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the

- application. A notice of denial may be provided to the applicant, which would state the reason(s) for the denial
- G. Appeal: The applicant may appeal the Departments decision to deny the Sewer Permit in accordance with the County's established policies and appeal procedures.
  - H. Permit Expiration: The Sewer Permit is valid for a period of no more than one (1) year from its date of issue. If installation is not completed within the year time frame, an extension request may be made to the Planning Department. The Planning Department designee may grant the extension request for a period of one (1) year if there have not been regulatory changes that impact the permit. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in conformance with the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.
  - I. Transferability: A SSTS Permit may be transferred to a new property owner only in the event that no changes to the previously submitted design has occurred. A new application form reflecting all changes in owner, installer, etc. must be submitted to the Planning Department.
  - J. Suspension or Revocation: The Department may suspend or revoke a SSTS Permit issued under this section for any false statements, misrepresentations of facts on which the SSTS 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 may be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system shall not commence or continue until a valid Sewer Permit is obtained.
  - K. Posting: The Sewer 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, or produced at the time of inspection upon the request of the inspector.
  - L. Notification for Inspections and Inspection Protocol
    - a. Notification for Inspections:
      - I. It shall be the duty of the permittee or licensee to notify the Department to schedule an inspection in person, by telephone, email or in writing between the hours of 8:00 a.m. and 4:30 p.m., and preferable at least twenty four (24) hours in advance of the time the inspection is desired.
      - II. If adjustment of the specific inspection time is necessary, the final notice shall be given not less than four (4) hours in advance of the time the licensee desires inspection, and

- the Department will accommodate the change if possible. Every attempt to confirm the inspection time shall be given to the Department by at least 10:00 A.M. the day of the designated inspection.
- III. It shall be the duty of the permittee or licensee to make sure that the work meets the prescribed standards and limitations before giving the above notification.
  - IV. The installation and construction of the SSTS shall be in accordance with the permit requirements and Department approved design.
  - V. Proposals to alter the permitted construction shall be reviewed and the proposed changes approved by the Department prior to construction.
- b. SSTS Inspection Protocol.
- I. Prior to the inspection by the qualified employee of the Department, the licensee may complete an as-built-plan on the inspection form provided by the Department. At the time of inspection the qualified employee shall review the information provided on the inspection form and inspect the ISTS to ensure the information provided by the licensee on the inspection form complies with applicable requirements of this Ordinance.
  - II. If the SSTS is installed by the homeowner, the system must be inspected by the Department. All conditions regarding notification for inspections apply, as described above.
  - III. The equipment and supporting labor necessary for the inspection shall be furnished by the licensee.
  - IV. When required by the Department, holding tanks, septic tanks, or dosing chambers shall be filled with liquid to the discharge invert level to demonstrate they are watertight.
  - V. If any SSTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department, if deemed necessary.
  - VI. If the permittee or licensee provides proper notice as described above and the Department does not appear for an inspection within one (1) hour of the scheduled inspection time, the licensee may complete the installation. The licensee shall file an as-built-plan on a Department approved inspection form. The as-built-plan is submitted to the Department within five (5) working days of the SSTS installation. The as-built-plan shall include photographs or video of uncovered components of the SSTS, and shall include certified statement by the licensee that certifies that the SSTS was installed in accordance with this Chapter, and that the licensee agrees to indemnify and save Winona County harmless from all loss, damages, costs, charges that may be incurred by the County because of the licensee's failure to comply with the applicable

requirements of this Chapter. Following the As-Built-Plan submittal, the Department will visit the site and issue a Certificate of Compliance or Notice of Noncompliance.

- c. Protocol for SSTS Installation During Nonbusiness Hours.
  - I. Prior notification must be given to the Planning department, as described in B above if the SSTS is to be installed during hours when the Planning Department is closed and on Saturdays, Sundays and holidays (as listed in the Winona County Policies).
  - II. An onsite inspection shall be scheduled within the next five (5) Planning Department business days, and the Department will visit the site to meet with the installer and issue a Certificate of Compliance or Notice of Noncompliance.
  - III. All efforts must be made to leave the ISTS uncovered for inspection by the Department during business hours. If this is not possible, an as-built plan with a certified statement on a Department-approved form shall be submitted and photographs or video of the system components or other evidence to show compliance that satisfy the Department that the system meets applicable requirements. If the Department is not satisfied that the system meets applicable requirements the system shall be uncovered upon request of the Department.
- d. Additional SSTS As Built Protocol
  - I. The permittee or licensee shall submit to the Department an as-built plan on an inspection form provided by the Department within five (5) working days of completion of the installation.
  - II. The as-built plan shall be signed and certified by the Designated Registered Professional that the SSTS is in compliance with applicable requirements of this Ordinance.
  - III. The as-built-plan shall include a detailed drawing of the SSTS, location of the SSTS components, and their relative location to permanent structures, wells and/or other physical features of the lot.
- M. Soil Verification / Soil Dispute for New Proposed Systems
  - a. If there is a dispute between two (2) or more inspectors in regards to the soil verification of vertical separation, the disputing parties must follow the procedure described in 7082.0700, Subp. 5.

### 13.7.3 Operating Permit

An Operating Permit shall be required of all owners of new holding tanks or MSTs or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the Planning Department certifies that the

MSTS or holding tank was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, and a valid Operating Permit is issued to the owner.

#### 13.7.3.1 Permit Application Requirements

- A. Application for an Operating Permit shall be made on a form provided by the Planning Department, for any SSTS, MSTS or holding tank deemed necessary to utilize an Operating Permit. The form shall require the following information:
- a. Owners name, mailing address, telephone, and email address if applicable;
  - b. Sewer Permit reference number and date of issue;
  - c. Final record drawings of the treatment system;
  - d. Owners of holding tank(s) must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
- B. Monitoring and Disposal Contract: Owners of holding tanks shall provide to the Planning Department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, Section 115.56, subdivision 3, paragraph (b), clause (3).

#### 13.7.3.2 Department Response

The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department may issue an operating permit within ten (10) working days of receipt of the permit application.

#### 13.7.3.3 Operating Permit Terms and Conditions

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

- a. System performance requirements
- b. System operating requirements
- c. Monitoring locations, procedures and recording requirements
- d. Maintenance requirements and schedules
- e. Compliance limits and boundaries
- f. Reporting requirements
- g. Department notification requirements for non-compliant conditions

- h. Valid contract between the owner and a licensed maintenance business
- i. Disclosure, location and condition of acceptable soil treatment and dispersal system site.
- j. Descriptions of acceptable and prohibited discharges.

### 13.7.3.4 Permit Expiration and Renewal

- A. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
- B. An Operating Permit shall 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 in ninety (90) calendar days of the expiration date, the County may require that the system be abandoned in accordance with Section 13.8.
- C. The Department may notify the holder of an operating permit prior to expiration of the permit. The Owner shall 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:
  - a. Applicant name, mailing address and phone number.
  - b. Reference number of previous owner's operating permit.
  - c. Any and all outstanding Compliance Monitoring Reports as required by the Operating Permit.
  - d. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the County.
  - e. Any revisions made to the operation and maintenance manual.
  - f. Payment of application review fee as determined by the County.

### 13.7.3.5 Amendments to Existing Permits

The County may amend an existing permit to reflect changes in this Ordinance, or as necessary to eliminate an imminent threat to public health or safety.

### 13.7.3.6 Transfers

The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with section 13.7.3.1. The Department shall terminate the current permit within sixty (60) calendar days after the date of sale if 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.

### 13.7.3.7 Suspension or Revocation



- A. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- B. Notice of suspension revocation and the reasons for revocation may 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 section 13.8.
- D. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

#### 13.7.3.8 Compliance Monitoring

- A. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- B. A monitoring report shall be prepared and certified by a licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
  - a. Owner name and address
  - b. Operating Permit number
  - c. Average daily flow since last compliance monitoring report
  - d. Description of type of maintenance and date performed
  - e. Description of samples taken (if required), analytical laboratory used, and results of analyses
  - f. Problems noted with the system and actions proposed or taken to correct them
  - g. Name, signature, license and license number of the licensed professional who performed the work

### 13.8 Abandonment

#### 13.8.1 Purpose

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

#### 13.8.2 Abandonment Requirements

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification,

replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance may be prohibited.

- B. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.
- C. An owner of an SSTS may retain a licensed installation business to abandon all components of the treatment system within sixty (60) calendar days of a system installation. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. Notification of the Department of an owner's intent to abandon a system is necessary.
- D. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
  - a. Owner's name and contact information.
  - b. Property address.
  - c. System construction permit and operating permit.
  - d. The reason(s) for abandonment.
  - e. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

### 13.8.3 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 may issue an abandonment certificate. If the abandonment is not completed according to the requirements of this ordinance; the County will notify the owner of the SSTS and the SSTS contractor of the deficiencies, which shall be corrected within (30) calendar days of the notice.

## 13.9 Management Plans

### 13.9.1 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.

### 13.9.2 Management Plan Requirements

- A. 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 SSTS application plans for review and approval. The Department shall be notified of any system modifications made during construction and the

management plan revised and resubmitted prior to the time of final construction certification

- B. Required Contents of a Management Plan: Management plans shall include (Minnesota Rules, Chapter 7082.0600, Subp.1):
- a. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform.
  - b. Monitoring requirements.
  - c. Maintenance requirements including maintenance procedures and a schedule for routine maintenance.
  - d. Statement that the owner is required to notify the Department when the management plan requirements are not being met.
  - e. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
  - f. Other requirements as determined by the Department
- C. Requirements for Systems not Operated under a Management Plan (Minnesota Rules, Chapter 7082.0100, Subp. 3.(L)): SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three (3) years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.
- D. Compliance Monitoring for Performance SSTS
- a. Performance monitoring of a SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
  - b. A monitoring report shall be prepared and certified by a licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
    - I. Owner name and address.
    - II. Operating Permit number.
    - III. Average daily flow since last compliance monitoring report.
    - IV. Description of type of maintenance and date performed.
    - V. Description of samples taken (if required), analytical laboratory used, and results of analyses.
    - VI. Problems noted with the system and actions proposed or taken to correct them.
    - VII. Name, signature, license and license number of the licensed professional who performed the work.

## 13.10 Compliance Management

### 13.10.1 Public Education Outreach

Programs may periodically 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. The Winona County Planning Department shall make a good faith attempt to insure citizens of the county are aware of this Chapter, the value of properly designed, installed and maintained septic systems, and the ramifications of failing systems.

### 13.10.2 Compliance Inspection Program

- A. Department Responsibility: The Department may perform or require its agents or any SSTS contractors to perform various SSTS compliance inspections to assure that the requirements of this Chapter are met, as described in 7082.0700, Subp. 2 and 3 except for Subp. 3(3).
- a. SSTS compliance inspections shall be performed to:
    - I. To ensure compliance with applicable requirements.
    - II. To ensure system compliance before issuance of a permit for addition of a bedroom; unless the permit application is made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30.
    - III. For all new SSTS construction or replacement.
    - IV. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
  - b. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
  - c. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department may notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.
  - d. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
- B. New Construction or Replacement

- a. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
  - b. It is the responsibility of the SSTS owner or the owner's agent to notify the Department one (1) calendar day prior to any permitted work on the SSTS.
  - c. 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.
  - d. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of non-compliance must be issued to the property owner.
  - e. The certificate of compliance or notice of non-compliance must be submitted to the Department, and to the property owner or owner's agent no later than fifteen (15) calendar days after the date the inspection was performed.
  - f. 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.
- C. Existing Systems
- a. Compliance inspections shall be required when any of the following conditions occur:
    - I. When a permit is required to repair, modify, or upgrade an existing system.
    - II. 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.
    - III. 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.
    - IV. At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
  - 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:
    - I. Watertightness assessment of all treatment tanks including a leakage report.
    - II. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically

- saturated soil or bedrock including a vertical separation verification report; Chapter 7082.0700, Subp. 3(2) requires that a vertical separation report include verifications by two (2) independent parties, which may be licensed inspection businesses and/or a qualified employee inspector with jurisdiction.
- III. Sewage backup, surface seepage, or surface discharge including a hydraulic function report. The requirements for the inspection reports in this section are described in Minnesota Rules, Chapter 7082.0700, Subp. 4(B).
  - IV. If there is a dispute between two (2) or more inspectors in regards to the soil verification of vertical separation within the compliance report, the disputing parties must follow the procedure described in 7082.0700, Subp. 5.
- 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 state and local SSTS requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those provisions with which the SSTS does not comply. A sewer permit application shall be submitted to the Department for any required corrective actions other than a minor repair.
  - d. The certificate of compliance or notice of noncompliance must be submitted to the Department and the property owner or the owner's agent no later than fifteen (15) calendar days after the date the inspection was performed. The Department may deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within ninety (90) calendar days of receipt from the licensed inspection business.
  - e. Certificates of compliance for existing SSTS shall remain valid for three (3) years from the date of issue unless the Department finds evidence of non-compliance.
  - f. SSTS on properties sold or transferred to new owners shall 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 shall precede the property sale transaction. These standards shall become effective on January 1, 2012.
- D. Transfer of Properties/Point of Sale with Existing SSTS Requirements shall become effective on January 1, 2012:
- a. Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have an SSTS occurs, the following requirements shall be met:

- I. A compliance inspection has been performed and a Certificate has been issued by the Department.
  - II. The compliance inspection must have been performed by a licensed inspection business following procedures described in Section 13.10.2 of this Ordinance.
  - III. The seller of the property must disclose in writing information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department.
  - IV. If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS. The security shall be placed in an escrow with a licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to one hundred and fifty (150) percent of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to one hundred and ten (110) percent of the written contract price for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the Department shall provide the escrow agent a copy of the Certificate of Compliance.
- b. The compliance portion of the Certificate of Compliance need not be completed if the sale or transfer involves the following circumstances:
- I. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
  - II. The transfer does not require the filing of a Certificate of Real Estate Value, as described in Minnesota Statutes, Section 272.115, subdivision 1.
  - III. The transfer is a foreclosure or tax forfeiture.
  - IV. 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 Winona County approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or, any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.
  - V. The sale or transfer completes a contract for deed or purchase agreement entered prior to January 1, 2012. This subsection applies only to the original vendor and vendee on such a contract.
- c. All property conveyances subject to this ordinance occurring during the period between November 1st and April 30th, when SSTS compliance cannot be determined due to frozen

soil conditions, shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1<sup>st</sup> by a licensed inspection business. If upon inspection the system is found to be noncompliant, an escrow agreement must be established in accordance with section 13.10.2 (A) and the system upgraded.

- d. The responsibility for filing the completed compliance portion of the Certificate of Compliance under section 13.10.2 (A) or for upgrading a system found to be noncompliant shall be the responsibility of the property seller. Buyer and seller shall provide the Department with a signed statement indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be non-conforming.
- e. Neither the issuance of permits, certificates of compliance, or notices of noncompliance 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 with the provisions of these standards and regulations.

### 13.11 Enforcement

Enforcement of the SSTS chapter shall follow standards in Chapter 5.

### 13.12 Record Keeping

The County shall maintain a current record of all permitted SSTS systems. The record shall contain all SSTS permit applications, issued SSTS 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 SSTS system.

### 13.13 Annual Report

The department may provide an annual report of SSTS permitting activities to MPCA as required by the Agency.

### 13.14 Interpretation

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

### 13.15 Severability



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

### 13.16 Abrogation and Greater Restrictions

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

### 13.17 Ordinance Repealed

The previous Winona County ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

## CHAPTER 14: RURAL ADDRESSING

### 14.1 Intent

In many areas within Winona County, small communities and rural areas are experiencing an increase in housing and other forms of development. The increased growth in unincorporated areas has caused problems with the existing Emergency Numbering System (Fire Numbers). The system's inability to expand, while maintaining a logical sequence, has caused confusion among emergency first responders and other people using or maintaining the system. For this reason re-addressing has become necessary. Re-addressing will allow emergency personnel to more quickly and reliably locate people in need of their services. The US Postal Service will also use this address to more efficiently deliver mail. Package delivery services, school bus, and utility service providers will also use this address to more efficiently deliver customer services throughout the county. Re-addressing will also aid visitors in more quickly and efficiently locating rural residents.

### 14.2 Purpose, Scope, and Statutory Authorization

1. The purpose of these regulations is to provide for the establishment of an official plan for a coordinated system of road numbers or names and house or property numbers in the unincorporated areas of Winona County, and to provide for the administration thereof. This Chapter has been designed to be compatible with the 911 Emergency Telephone System established by Minnesota Statutes, Chapter 403. The Rural Addressing Chapter is hereby adopted pursuant to authority contained in Minnesota Statutes, Chapter 394, commonly known as the County Planning and Zoning Enabling Legislation.
2. Official Map: The County Board shall adopt an Official Road Naming and Numbering Map which documents the assigned names or numbers for all roads within the unincorporated area of the County of Winona. Said map shall constitute the Official plan of Road Naming and Numbering. Said map may be divided into townships, subdivisions, or other units each separately identified as a portion of the Official Map.
3. Compliance: The Rural Addressing Chapter shall be used for the naming and numbering of all roads and structures within the unincorporated areas of Winona County. Hereafter:
  - a. All persons, firms, corporations, and other legal entities constructing new structures or locating or relocating mobile homes in unincorporated areas of Winona County, shall obtain an address notification form duly issued by the Planning Department. Addresses shall be verified and issued by the Planning Department as part of the Construction Permit issuance process when application is made to locate a new residence or other commercial venture within Winona County.

- b. No utility company operating in Winona County, shall furnish its utility services to any new structure or manufactured home, including a stick-built residence or manufactured home that is moved from one location to another in an unincorporated area, until it has been issued a valid address by the Planning Department.
  - c. When a new Subdivision Plat is recorded or whenever a new road is established by other means it shall be the responsibility of the subdivider or individual petitioning to establish the road to provide a sign which conforms to the County Design and Placement Standards for street signs contained in Chapter 15. It shall be the duty of the subdivider or proposer to place signs at such intersections and other locations as may be required by Chapter 14 and 15.
  - d. If any township or other governmental entity chooses to erect road naming or numbering signs, the signs shall comply with the design and placement specifications contained in Section 16. If a township, or subdivision is signed, the entire township or subdivision must have road signs installed.
4. Existing Street Names: Existing subdivisions with interior roadways, names of which are recorded on the original subdivision plat in the Winona County Recorders Office, are accepted as is unless duplication or similar sounding names are encountered. If deemed necessary they will be changed by resolution of the Winona County Board.
  5. Separability: Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, except that part so declared to be invalid.

### 14.3 Determination, Assignment, and Recording of Names of Roads and Structure Addresses

Road names and addresses for existing roads and structures in Winona County will be provided. Future addresses shall be applied for and assigned pursuant to the following process:

1. Applicants shall request the address application and notification form from the Planning Department. Application shall be made in writing on the provided application. The Planning Department shall furnish the applicant with sufficient copies of the address notification form to present to pertinent utility companies and the United States Postal Service. Addresses shall typically be issued concurrent with issuance of a Development Certificate after site inspection and verification of structure location.
2. When an application is made for an address, the legal description and tax parcel identification number of the property shall be furnished by the property owner to enable staff to verify the location of the structure or property requiring the address.

3. As soon as is practically possible after application for an address has been made and all required information proved by the applicant, the address shall be determined and assigned.
4. If there is a lack of information submitted, a bonafide use or a legally permitted structure cannot be determined by the Planning Department, the application shall be denied.

### 14.4 Winona County Road Naming and Numbering Criteria - General

1. All public roadways in the unincorporated area will be assigned a name, which will be combined with a number derived from the Address Numbering Grid for Winona County to make up the complete address of a building or land parcel.
2. The Address Numbering Grid for Winona County originates from the northwest corner of Whitewater Township (T. 108 N., R. 10 W.) more accurately described as: a point at the intersection of the following lines: Northerly Base line shall be assumed to be the north line of Whitewater Township (Township 108N, Range 10 West) the Westerly Base line shall be the west line of Whitewater Township (Township 108N, Range 10 West) of Winona County, Minnesota. The Address Numbering Grid origin shall begin with the numbers 10,000, 10,000 rather than 0,0. This is done in an attempt to eliminate any potential address duplications from within municipalities.
3. The address interval for Winona County shall be approximately 1,000 potential addresses per mile. This equates to approximately 5.28 feet per address. It should be noted that while this is the standard it is not possible to assign 1,000 addresses to every mile of road within Winona County due to our topography and directions of roads. Even number addresses shall be on the East side of the North-South roads. Odd numbers shall be on the South side of the East-West roads.
4. All roadway names assigned in the future to existing or new roadways shall be approved by the County Board and said names shall be added to the County's Official Addressing Map.
5. All Roadways that run primarily East / West shall be identified as "Drives". All Roadways that run primarily North / South shall be identified as "Roads". Pre and post directional (N, S, E, W) shall not be used for any road names in Winona County.
6. All State and County highways will retain the given highway number and not be given any other name.
7. Privately owned roadways that support three (3) or more dwellings shall be assigned a road name in accordance with this Chapter. The signs displaying these road names shall be posted in accordance with this ordinance and shall use a green sign blank for identification purposes. These roads will also use the suffix of "Lane" to further delineate them from a public road. The house numbers shall be assigned by the Planning Department.

8. Private driveways currently containing only two (2) dwellings do not require a road sign in accordance with Section 14.01.4(7). If, in the future, the residents of a private driveway allow a third residence to access their dwelling from their private drive, a road sign will then be required in accordance with Section 14.01.4(7). The cost for the sign and installation of the road sign shall be borne by the third party.
9. Final roadway names will be assigned only after a map of roadway names has been prepared under direction of the County Board and a public hearing has been conducted thereon, and said names and map have been adopted by the County Board thereafter.
10. Road Naming Criteria within Subdivisions:
  - a. Alternate Road Names Permitted within Subdivisions: Because circular, cul-de-sac, loop, and curvilinear street patterns are typically utilized in subdivision design, the Winona County Road Naming System may be difficult to apply in subdivisions due to density and lack of uniformity in street patterns. Alternative road names (suffixes) are listed below:
    - I. Arterial Streets: Right-of-Way width greater than eighty (80) feet will be termed parkway, boulevard, road, roadway.
    - II. Collector Streets: Right-of-Way width greater than sixty-six (66) feet of right-of-way will be termed drive or way (excludes Cul-de-sacs).
    - III. Minor Streets: Right-of-Way width of sixty-six (66) feet or less will be termed street, or assigned no nomenclature at all (excluding cul-de-sac).
    - IV. Collector Cul-de-sac: Includes cul-de-sac, dead ends, loop, circular) greater than four hundred (400) feet will be termed but not limited to lane, trail, shire, hollow, heights, view, ravine, valley, or hills.
    - V. Minor Cul-de-sac: Includes cul-de-sac, dead ends, and loops with a length not exceeding four hundred (400) feet will be termed court, circle or place.
    - VI. Dedicated Pedestrian Ways or Easements: If named, shall be called "Path" or "Walk."
  - b. Suggested Road Name Themes: In larger subdivisions a name theme is suggested (i.e. trees, birds, states, flowers, presidents, etc.)
  - c. Exceptions: Exceptions or additions to the above-mentioned terminologies will be at the discretion of the County Board.
11. Prohibited Road Naming:
  - a. Street names shall not be duplicated with that of any presently represented streets, avenues, roads, drives, circles, courts, etc. located in Winona County.
  - b. Different names shall not be approved for a proposed road in any geographic area of the county if that road is in effect a continuation of, projection of, or could be related in any way to the alignment of an existing named road.

- c. Names with similar spellings, pronunciations or meanings may be construed as being duplications.
- d. Street names shall not exceed eighteen (18) characters in length to facilitate signing (including street nomenclature abbreviation).

### 12. Road Name Records

- a. The Planning Department shall keep a record of the names and/or numbers of all roads in the County. When any new road is proposed by submittal of subdivision plat, or otherwise proposed by any person, governmental body, or department, the proposal shall be referred to the Planning Department to be checked for duplication, spelling, and conformity with this Chapter.

### 14.5 Identification Signs

1. The County Board shall adopt a standard for Township Road and House Number Sign design and a standard for sign placement as designated by this Chapter. Said adopted Sign Design Standard shall be designated in Chapter 16. Said Sign Placement Standard shall be designated in Chapter 16.
2. The County Board shall adopt a standard for House Number Signs as designated by this Chapter. Said adopted House Number Sign Design Standard shall be designated in Chapter 16.
3. Signs shall be mounted and placed as specified in Chapter 16
4. House Number Sign maintenance will become the responsibility of the property owner after initial placement of sign by Winona County or their authorized agent. All House Number Signs must be issued by Winona County.
5. A sign's location may be changed only under extraordinary circumstances, and upon prior approval by the Planning Department. The movement of the sign (greater than ten (10) feet from the sign's original location) may result in the issuance of a new address as assigned by the Planning Department.

## CHAPTER 15: SUBDIVISION REGULATIONS

### 15.1 Purposes and Intent

Enacted for the following purposes: to safeguard the best interests of Winona County; to assist the subdivider in harmonizing the subdividers interests with those of the County at large, as well as with those of the local municipalities located within the County; to prevent piecemeal planning of subdivisions, undesirable, disconnected development patterns, and poor circulation of traffic; to correlate land subdivisions with the County Comprehensive Plan; to secure the rights of the public, with respect to public lands and waters; to improve land records by establishing standards for surveys and plats; to discourage inferior development which might adversely affect property values; and to establish subdivision development at standards comparable with affected municipalities within this County.

It is the purpose and intent of this Chapter to make certain regulations and requirements for the platting of land in Winona County pursuant to “an act authorizing County planning and zoning activities; establishing a Board of Adjustment; authorizing the enactment of official controls, and providing penalties for violation thereof,” passed by the Legislature of the State of Minnesota, Chapter 559, Laws of 1959 as amended, which regulations of the Board of County Commissioners deems necessary for the health, safety, and general welfare of the County.

#### 15.1.1 Jurisdiction

The regulations herein governing plats and the subdivision of land shall apply to all areas of the County lying outside the incorporated limits of municipalities with the exception of the area within two (2) miles of a municipality whereby such municipality, by resolution, has extended the application of such regulations pursuant to Minnesota Statute 462.358, Subdivision 1 (1971) and with the exception where a town has adopted subdivision regulations pursuant to Minnesota Statutes 368.01.

#### 15.1.2 Receiving and Recording Non-approved Plats

It shall be unlawful to receive or record in any public office any plans, plats or replats or land laid out in building lots and highways, streets, roads, alleys or other portions of the same intended to be dedicated to public or private use, for the use of purchases or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and the County Board.

#### 15.1.3 Application

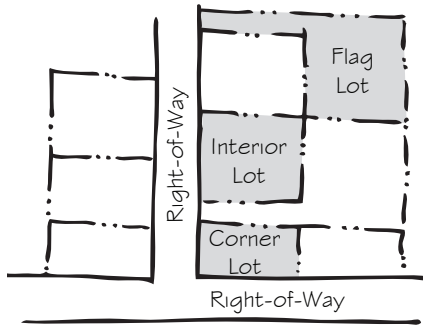


Figure 15.1 Conventional lot shapes

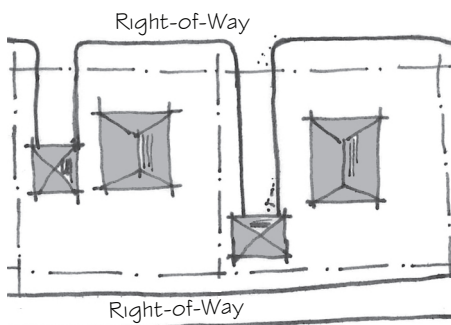


Figure 15.2 Double frontage lots

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this Chapter, shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivisions of a lot, parcel, or tract of land into three (3) or more lots for the purpose of immediate or future transfer of ownership with the intention of obtaining Development Certificates, including the re-subdivision or re-platting of lots or parcels and/or the construction of new roads or the creation of easements intended for dedication as a public thoroughfare, or the platting of a one or more lots for commercial or industrial development requires the submission of a Preliminary Plat Application.

The Planning Commission will review a Preliminary Plat Application in accordance with the standards set forth in this Ordinance for preliminary plats, and that the Planning Commission shall first approve the arrangement and sizes of the lots, and the tracts designated as easements or roads in the proposed subdivision before making a recommendation for the County Board to consider. Failure to obtain subdivision approvals from the Planning Commission and the County Board in accordance with the standards set forth in this Chapter, the Planning Department will withhold the issuance of Development Certificates for buildings/structures on tracts subject to the provisions contained in this Chapter. The County has the ability to refuse to assume the responsibility, the repair, or the maintenance of tracts designated as streets, roads, easements, or public thoroughfares.

A lot, parcel, or tract of land, for purposes of this Chapter is a designated area of land described and recorded with the Winona County Recorder as of August 1, 1970. A subdivision of land may occur in any Zoning District provided the proposed subdivision complies with all applicable standards of the Winona County Zoning Ordinance.

Division of land into lots larger than five (5) acres in area and containing three hundred (300) feet of public road frontage and width, which does not involve any new streets or easements of access shall be exempt from the requirements of this chapter.

#### 15.1.4 Approvals Necessary for Acceptance of Subdivision Plats

Pursuant to 15.1.3 of this Chapter, before any plat shall be recorded or be of any validity, it shall be reviewed by the County Planning Commission and approved by the Board of County Commissioners as having fulfilled the requirements of this Chapter. Where any municipality has adopted extra territorial subdivision regulations as provided by the State of Minnesota Statutes 462.358, any proposed plat lying within two (2) miles of said municipality shall conform to the procedures as prescribed by the municipality.



**15.1.5 Recording**

No plat or any subdivision shall be entitled to record in the Office of the Winona County Recorder’s Office or have any validity until the plat thereof has been prepared, approved, and acknowledge in the manner prescribed by this Chapter.

**15.1.6 Site Improvements**

No Development Certificates shall be issued by Winona County for the construction of any building, structure, or land improvement in a subdivision, as defined herein, until the subdivider complies with all requirements of this Chapter.

**15.1.7 Misrepresentations as to Construction, Supervision, or Improvement Inspections**

It shall be unlawful for any subdivider, person, firm or corporation owning an addition or a subdivision within the County to represent that any improvement upon any of the highways, roads, streets, sewers, and or drainage features in said addition or subdivision has been constructed according to the plans and specifications approved by the County Board, or has been supervised or inspected by the County, when such improvements have not been so constructed, supervised, or inspected.

**15.1.8 Penalty**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand (1,000) dollars or by imprisonment not to exceed ninety (90) days or both for each offense. Each day during which compliance is delayed shall constitute a separate offense. Mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction may enforce the platting, replatting, subdividing or conveyance of land not in accordance with the requirements of this Chapter.

**15.1.9 General Provisions**

Rules and regulations governing plats and subdivision of land in areas where a municipality has adopted extra territorial jurisdiction in Winona County.

- A. All applications for plats in areas of Winona County, which municipalities have by resolution extended subdivision jurisdiction and in towns who have subdivision regulations, shall be made to the regulatory power.

**15.2 Design Standards**

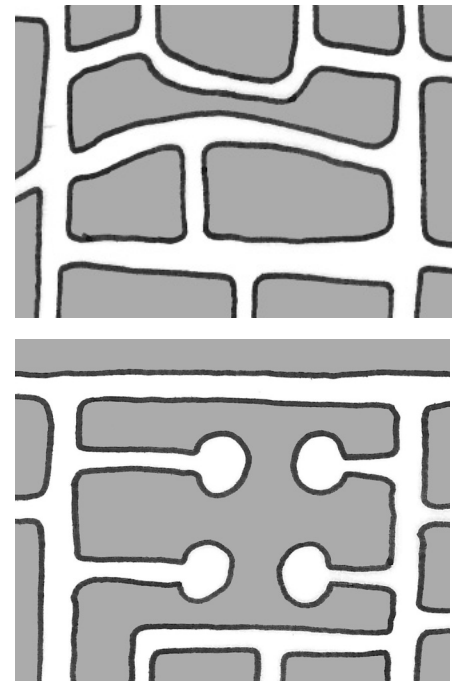


Figure 15.3 Top: Subdivision example with interconnected local streets. Bottom: Poor example of road connectivity through a subdivision.

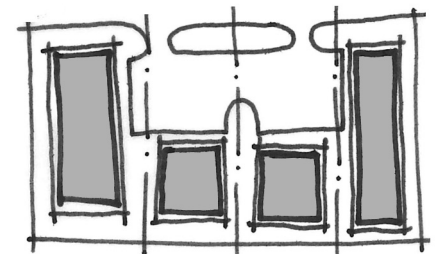


Figure 15.4 Comprehensive Plan favors the use of access management to limit curb cuts.

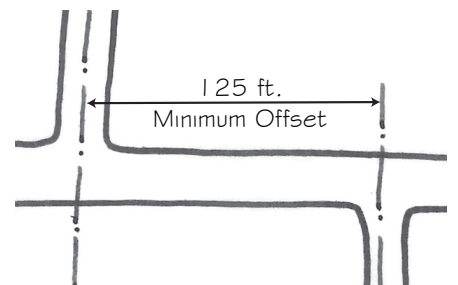


Figure 15.5 Avoid road jogs of less than 125 feet.

### 15.2.1 Blocks

1. **Block Length:** In general, intersecting streets and roads, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred twenty (1,320) feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use should normally not exceed six hundred (600) feet in length.
2. **Block Width:** The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and loading areas.

### 15.2.2 Lots

1. The minimum lot area, lot width, and lot depth shall conform to the requirements of the zoning district in which the plat is situated as required by the Winona County Zoning Ordinance.
2. Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by the Winona County Zoning Ordinance.
3. Side lines of lots shall be approximately at right angles to road or street lines or radial to curved road or street lines.
4. Double frontage lots shall be avoided except where lots back on a highway or other arterial road, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least ten (10) feet in order to allow space for screen planting along the back lot line.
5. Every lot must have the minimum required frontage on a public dedicated road or street other than alley, and the access for the lot shall be from the required frontage.
6. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Winona County Zoning Ordinance. On those lots which are intended for business or industrial use, the setback shall not be less than the setback required by the Winona County Zoning Ordinance.
7. Side lot lines shall approximate right angles to straight road lines or be approximately radial to curved road lines, except where a variation will provide a better road and lot layout. For purposes of this requirement, "approximate right angles" means angles between eighty (80) degrees and one hundred (100) degrees.

8. A subdivider shall not propose a residential lot with irregular shapes such as a flag or panhandle shape, or where the residence on the lot may be hidden from the road by another structure.

### 15.2.3 Roads, Highways, Streets, and Alleys

1. The arrangement of public thoroughfares shall conform as nearly as possible to the Winona County Comprehensive Plan. Except for cul-de-sacs, roads and streets normally shall connect with roads and streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of roads in the nearest subdivided tracts. The arrangement of highways shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to storm water runoff, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
2. Local roads and streets should be planned as to discourage their use by non local traffic. Dead-end streets and roads shall be prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet, including a terminal turn-around which shall be provided at the closed end, with an outside curb radius of at least fifty (50) feet and a right-of-way radius of not less than sixty (60) feet.
3. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street and road system for the unsubdivided portion shall be prepared and submitted by the subdivider.
4. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged as to permit the logical location and openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
5. Under normal conditions, roads shall be designed so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of roads shall be eighty (80) degrees. Road jogs with an offset of less than one hundred twenty five (125) feet shall be avoided.
6. Wherever a proposed subdivision is adjacent to the right-of-way of a federal, state, county highway, or an arterial, the developer shall make a provision for a frontage road as a means to control access to contiguous properties while ensuring safe traffic circulation. These frontage roads may be one-way or two-way and have a design capacity to accommodate intended traffic volumes of a maximum build-out scenario for the area. Winona County requires the use of common entrances for abutting properties along the frontage road,

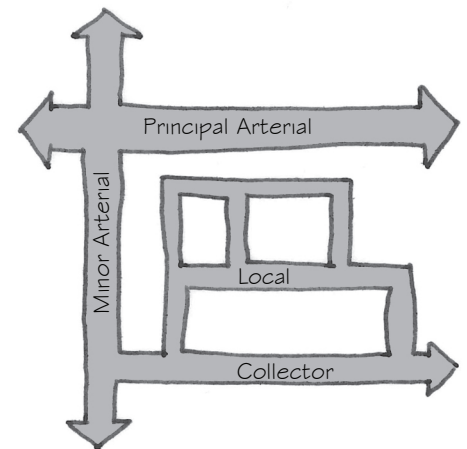


Figure 15.6 Comprehensive Plan promotes a hierarchy of roads.

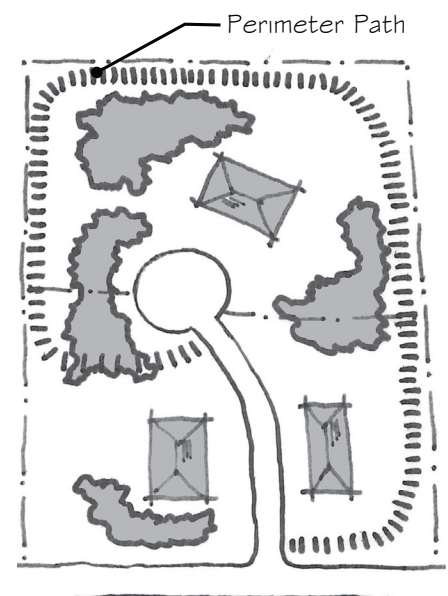


Figure 15.7 Subdivision with Perimeter Path.

- and the placement of internal accesses between the properties to reduce the need for unnecessary curb cuts along heavily traveled highways and arterials.
7. Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as on-site loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than twenty (20) feet wide. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turn-around facilities are provided at the closed end.
  8. Dedication of half streets or roads will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.
  9. Standards for public thoroughfares listed in Table 15.1 provide a summary of various street types. Winona County Planning Department provides the information in this table as guidance for the design of a street network within a subdivision. When laying out a subdivision, the subdivider should select the street types based on the intended function of the street and anticipated traffic levels. Tables 15.1, 15.2 and 15.3 provide the minimum dimensions for right-of-ways and pavement widths, and the maximum grade for each of the thoroughfares. The Planning Department will review the thoroughfares within a proposed subdivision and determine the appropriateness of the type based on the factors set forth in this section.
  10. Minor street access to state and federal highways shall not be permitted at intervals of less than six hundred (600) feet.
  11. Road and Highway Alignments: The horizontal and vertical alignments standards on all roads, highways and streets shall be as outlined in the "Table of Road & Highway Alignments." There shall be a tangent between all reversed curves of a length in relation to the radii of the curves so as to provide for a smooth flow of traffic.
  12. A subdivision comprising of six (6) or more lots and having the appearance of a suburban neighborhood, or a subdivision of three or more lots within one (1) mile of an incorporated municipality shall have concrete sidewalks along at least one (1) side of residential thoroughfares, except if the subdivision connects to an existing development that has sidewalks on both sides, in those instances the subdivider shall install sidewalks on both sides. The sidewalks must have a minimum width of four (4) feet. Where a trail

extension, as identified in the Winona County Comprehensive Plan or a municipality comprehensive plan, is located on the subject property, the County may require an easement or alternatively, may require dedication of an out lot for a trail connection. The subdivider has the responsibility for the construction of sidewalk along the frontage of private open space, or a public open space contained in the subdivision.

13. For developments consisting of less than three (3) lots, or a development emphasizing rural design aesthetics, the subdivider may install a network of alleys, paths, or trails assuring inhabitants of the subdivision have adequate access throughout the development. These pedestrian features can complement unique natural landscapes or amenities such as green ways or open space incorporated into the subdivision.

#### 15.2.4 Easements

1. An easement for utilities at least six (6) feet wide shall be provided along the side line of lots, front line and/or rear line of lots where necessary to form a continuous right-of-way, at least twelve (12) feet in width. If necessary for the extension of water mains or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.
2. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the County Board, by ordinance, upon the recommendation of the Planning Commission.
3. Additional easements for utility pole features should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that utility pole features will fall along side lot lines.
4. Where a subdivision contains or is traversed by a water course, drainage way, channel, lake or stream, a stormwater easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water courses, shall be provided, together with such further width or construction, or both, as will be adequate for the stormwater drainage of the area. The width of such easements shall be determined by the County Engineer.

#### 15.2.5 Public Sites and Open Spaces

1. In subdividing land or resubdividing an existing plat, due consideration shall be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, conservation areas, or other public or semi-public recreational areas or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the Comprehensive Plan. Whenever the Comprehensive Plan shows the proposed park or recreational

# Chapter 15

*Table 15.1 Minimum Right-of-Way Widths*

Pedestrian Way	10 feet
Alley	20 feet
Marginal Service Access Roads	40 feet
Cul-de-sac(residential)	50 feet
Local Streets / Roads	60 feet
Minor Arterial Highway	60 feet
Principal Arterial Highway	100 feet
Major Regional Highway	150 feet

*Table 15.2 Pavement Width Requirements*

Pedestrian Way	10 feet
Alley	16 feet
Marginal Service Access Roads	16-20 feet
Cul-de-sac(residential)	26-28 feet
Local Streets / Roads	26-28 feet
Minor Arterial Highway	28 feet
Principal Arterial Highway	31 feet
Major Regional Highway	46 feet

*Table 15.3 Maximum Grade*

Pedestrian Way	12 percent
Alley	12 percent
Marginal Service Access Roads	10 percent
Cul-de-sac(residential)	10 percent
Local Streets / Roads	10 percent
Minor Arterial Highway	8 percent
Principal Arterial Highway	8 percent
Major Regional Highway	as required by MNDOT

*Table 15.4 Alternative Road Naming*

Roadway Type	Right-of-Way Width
Arterial Street	>80 feet
Collector Street	>66 feet
Minor Streets	66 feet or less
Collector Cul-de-sac	>400 feet
Minor Cul-de-sac	length 400 feet or less

area partially or completely within a proposed subdivision, the preliminary and final plats of said subdivision shall show the proposed site as reserved and the County shall have one year from date of approval of the preliminary plat by the Planning Commission in which to purchase said land or to initiate condemnation proceedings with respect thereto.

- Where deemed essential by the Planning Commission, upon consideration of the particular type of development proposed in the subdivision, and especially in larger scale neighborhood unit development not anticipated in the Comprehensive Plan, the Planning Commission may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such a development for schools, parks and other neighborhood purposes.

### 15.2.6 Land Suitability:

No land shall be subdivided which is held unsuitable by the County for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

### 15.2.7 Inconsistent Plats reviewed by Commissioner

All plats which are inconsistent with the County Shoreland Ordinance shall be reviewed by the MNDNR Commissioner or designee before final County approval may be granted. Such review shall require that proposed plats be received by the Commissioner at least ten (10) days before a hearing is called by the County for consideration of approval of a final plat.

### 15.2.8 Copies of Plats Supplied to Commission

Copies of all plats within Shoreland areas approved by the County shall be submitted to the Commissioner of Natural Resources within ten (10) days of approval by the County.

## 15.3 Plats Submission Procedure and Data

### 15.3.1 Sketch Plan

- Prior to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit for review with the Planning Department, subdivision sketch plans which shall contain the following information: tract boundaries, north point, description of nature and purpose of tract, streets on and adjacent to the tract, significant topographical and physical features, proposed general street layout, and proposed general lot layout.

2. Such sketch plans will be considered as submitted for informal and confidential discussion between the subdivider and the Planning Department. Submission of a subdivision sketch plan shall not constitute formal filing of a plan with the Planning Department.
3. As far as may be practical on the basis of a sketch plan, the Planning Department staff will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this Ordinance and will discuss possible plan modifications necessary to ensure conformance.

### 15.3.2 Preliminary Plat

#### 1. Procedure:

- a. **County Engineer:** The County Engineer shall submit a report to the Planning Commission concerning the feasibility of the proposed plat and its conformance with the requirements of this Ordinance. If the County Engineer is submitting the preliminary plat, the report shall be submitted by another qualified person who shall be selected by the County Planning Commission.
- b. The developer shall submit the preliminary plat to the affected township, Soil and Water Conservation District, and watershed district within five (5) days after the preliminary plat has been submitted to the Planning Department. The affected township, soil and water conservation district and watershed district shall have thirty-five (35) days from the date the preliminary plat was submitted to the Planning Department in which to submit their written recommendation to the Planning Department, regarding the proposed preliminary plat. Such recommendation shall indicate approval or disapproval, reasons for such a recommendation and may include recommended changes to the proposed preliminary plat. If no recommendation is forthcoming from the bodies within the thirty-five (35) days or if a written recommendation is received in less than thirty five (35) days, the Planning Commission may proceed with the necessary public hearing.
- c. A petition for approval of a preliminary plat shall be submitted to the County Planning Commission which shall hold a public hearing on the petition. Notice of the time, place, subject matter and purpose of said public hearing shall be published in the official newspaper of the County at least ten (10) days before the hearing. Written notice of said public hearing shall also be sent at least ten (10) days before the hearing to all owners of record within a half (1/2) mile of the affected property and also to the affected board of town supervisors and municipal council of any municipality within two (2) miles of the affected property. After completion of its deliberations the Planning Commission shall within thirty (30) days make a recommendation to the Board of County Commissioners along



Figure 15.8 Image from a Minnesota Department of Transportation document explaining the benefits of Corridor Access Management shows the consequences of poor planning decisions along a commercial thoroughfare including uncoordinated development, traffic conflicts, erratic design standards, inconsistent signage, and the absence of landscaping.

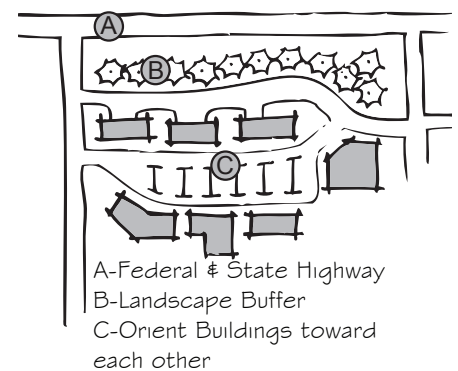


Figure 15.9 Frontage Roads

- with a report on its findings. In case the plat is disapproved, the subdivider shall be notified of the reason for such action.
- d. Consideration by the County Board:
    - I. A petition for approval of a preliminary plat which has been approved by the Planning Commission shall be submitted to the County Board which shall hold a public hearing thereon and either disapprove or approve said petition. Notice of said public hearing shall be given in the same manner as provided in 15.4.2 (1)(c). After completion of its deliberations the County Board shall within thirty (30) days act on each plat, which has been recommended for approval by the Planning Commission.
    - II. A petition for approval of a preliminary plat which has been disapproved by the Planning Commission may be submitted to the County Board by the petitioner. The petitioner shall have the right to petition within thirty (30) days after receipt of notice of the decision by the Planning Commission. The County Board shall hold a public hearing thereon and either disapprove or approve said petition. Notice of said public hearing shall be given in the same manner as provided in 15.4.2 1c.
    - III. Approval or disapproval of the preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting at which such plat was considered. In case the plat is disapproved the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the County Board. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the final plat. This approval of the preliminary plat shall be effective for a period of twelve (12) to eighteen (18) months unless an extension is granted by the County Board.
  - e. The subdivider may file a final plat limited to such portion of the preliminary plat which is proposed to be recorded and develop at the time, provided that such portion must conform to all requirements of this Ordinance. If some portion of the final plat has not been submitted for approval within this period a preliminary plat must again be submitted to the Planning Commission and County Board for approval.
2. Data Required: The subdivider shall prepare and submit a preliminary plat as follows, together with any necessary supplementary information:
    - a. Filing – Five (5) copies of a preliminary plat of any proposed subdivision shall be filed with the Planning Department.
    - b. Contents – The preliminary plat shall contain the following information:



- I. Proposed name of subdivision, names shall not duplicate or too closely resemble names of existing subdivisions.
- II. Location of boundary lines in relation to a known section, quarter section, or quarter-quarter section lines comprising a legal description of the property.
- III. Names and addresses of the subdivider and the designer making the plat.
- IV. Graphic scale of plat, not less than one (1) inch to one hundred (100) feet and indicated scale.
- V. Date and north point.
- VI. Existing Conditions:
  - i. Location, width, and name of each existing or platted street, road or other public way, railroad, the utility right-of-way, parks, wildlife, and other public open spaces, and permanent buildings, within or adjacent to the proposed subdivision.
  - ii. All existing sewers, water mains, gas mains, culverts, power or communication cables or other underground installations within the proposed subdivision or immediately adjacent thereto.
- VII. Proposed Development:
  - i. The location and width of proposed streets, roads, alleys, pedestrian ways, trails and easements. Typical road cross-sections shall be provided showing grading within the right-of-way, traveled way width, type and thickness of surfacing proposed, base course thickness and type.
  - ii. The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.
  - iii. Layout, numbers and approximate dimensions of lots and the number or letter of each block.
  - iv. Location and size of proposed parks, playgrounds, churches, school sites, or other special uses of the land to be considered for dedication to public use, or to be reserved by deed of convenient for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
  - v. Building setback lines with dimensions.
  - vi. Indication of any lots on which a use other than residential is proposed by the subdivider.
  - vii. The zoning district on and adjacent to the tract.
- VIII. Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.
- IX. Existing topography, shorelines, wetlands, blufflands, with contour intervals of not less than ten (10) feet, related to United States Geological Survey datum; also the location of water courses, ravines, bridges, lakes, marshes, wooded

areas, rock outcroppings, approximate acreage, and other such features as may be pertinent to the subdivision.

c. **Supplementary Requirements:**

Upon request of the Planning Department, supplementary information shall be submitted; such supplementary information may include the following:

- I. Two (2) copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.
- II. Proposed surface drainage diagrams for lots in the form of arrows, proposed contours or other appropriate method. Soil tests and reports, as specified by the County Engineer, by an approved soils laboratory.
- III. Location of floodplain, floodway, and flood fringe areas.

### 15.3.3 Final Plat

1. **Procedure:**

After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

- a. The County Engineer shall submit a report to the County Planning Commission regarding the conformance of the proposed final plat to the approved preliminary plat, the requirements of this Ordinance and all provisions of the Minnesota Statutes regarding the platting of land. Where the County Highway Engineer is submitting the proposed final plat, a registered land surveyor to be chosen by the County Planning Commission shall examine said plat and submit a report to the County Planning Commission.
- b. A petition for approval of a final plat shall be submitted to the County Planning Commission which shall hold a public hearing on the petition. Notice of the time, place, subject matter and purpose of said public hearing shall be published in the official newspaper of the County at least ten (10) days before the hearing. Written notice of said public hearing shall also be sent at least ten (10) days before the hearing to all owners of record within a half (0.5) mile of the affected property or to the nearest ten (10) property owners whichever would provide to the greatest number of owners and also to the affected board of town supervisors and the municipal council of any municipality within two (2) miles of the affected property. After completion of its deliberations the Planning Commission shall within sixty (60) days make a recommendation to the Board of County Commissioners along with a report on its findings. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

- c. A petition for approval of a final plat which has been approved by the Planning Commission shall be submitted to County Board which shall hold a public hearing thereon and either approve or disapprove said petition. Notice of said public hearing shall be given in the same manner as provided in Chapter 5. The County Board shall act on each plat forwarded by the Planning Commission within thirty (30) days after submission to County Board. If accepted the final plat shall be approved by resolution which resolution shall provide for the dedication of all streets, roads, alleys, easements, or other public ways and parks or other open spaces dedicated to public purposes. If disapproved, the grounds, for any refusal to approve a plat shall be set forth in the proceedings of the Board and reported to the subdivider applying for such approval.
2. Data Required:
- The subdivider shall submit a final plat together with any necessary supplementary information.
- a. Filing – Eight (8) copies of a final plat shall be filed with the Planning Commission.
  - b. Contents – The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes and as required below.
    - I. Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
    - II. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of final plat shall be one (1) foot in seventy-five hundred (7,500).
    - III. The location of monuments shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established road lines, in true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency or road lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half (0.5) inch or larger in diameter extending at least three (3) feet below the finished grade. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

- IV. Location of lots, streets, roads, highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
  - V. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block.
  - VI. The exact locations, widths, and names of all roads to be dedicated.
  - VII. Location and width of all easements to be dedicated.
  - VIII. Name of subdivider and surveyor making the plat.
  - IX. Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.
  - X. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".
  - XI. Statement dedicating all highways, streets, roads, alleys, and other public areas not previously dedicated as follows: Roads, alleys, and other public areas shown on this plat are not heretofore dedicated to public use are hereby so dedicated.
  - XII. If the plat contains areas within the floodplain, restrictive deed covenants shall be filed with the final plat and shall provide that the floodplain areas be left essentially in the state shown on the plat; establish finished elevations of buildings, structures and private streets and roads; and require that any additions or modifications to these facilities will not violate any provisions of the flood plain zoning ordinance or supplemental regulations.
- c. Filing Fee:

The final plat shall be accompanied by a fee as established by the County Board. Such fees to be used for the expense of the County in connection with the review, inspection, approval or disapproval of said plat which may thereafter be submitted.
  - d. Certification Required:
    - I. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, roads, and other public areas.
    - II. Notarized certification by a registered land surveyor, or county surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.

- III. Certification showing that all taxes and special assessments due on the property have been paid in full, if requested by the County Board.
- IV. Space for certificates of approval to be filled in by the signatures of the chairman of the County Planning Advisory Commission and the chairman of the County Board. The form of approval by the Planning Commission is as follows:
- V. Supplementary documents and information may be required as follows:
  - i. A complete set of street profiles showing grade line as constructed.
  - ii. Copies of any private restrictions and/or covenants affecting the subdivision or any part thereof.
  - iii. Signatures of municipal or township officials approving the plat, when such approval is required by State law.
  - iv. At least one print of the final plat shall be deposited with the County Auditor. This print shall contain the calculated square footage or acreage of all lots and out lots shown on the plat.

## 15.4 Basic Improvements

### 15.4.1 General

1. Before a final plat is approved by the County Board, the subdivider shall execute and submit to the County Board an agreement, which shall be binding on his or hers or their heirs, personal representatives and assigns, stating:
  - a. That the subdivider will develop the subdivision according to the development phases agreed upon by the County and the subdivider; stating specifically the development phases;
  - b. That the subdivider will cause no private construction to be made on said plat or file or cause to be filed any application for permits/certificates for such private construction until all improvements required under this Ordinance and those denoted on preliminary plat have been made for each development phase;
  - c. That the subdivider will furnish and construct said improvements at his sole cost and in accordance with plans and specification of the preliminary plat and of this Ordinance;
  - d. That the subdivider will submit prior to the making of any improvements an escrow deposit or a performance bond, the amount of the deposit or penal amount of the bond to be equal to one hundred and twenty-five (125) percent of the County Engineer's estimate of the cost of the improvements to be furnished, including all expense incurred by the County Engineer.
  - e. That the subdivider will guarantee completion of the required improvements within two (2) years from the date the final plat

was approved by the County Board unless an extension of time is granted by the County Board upon the recommendation of the Planning Commission.

2. Prior to making of such required improvements an escrow deposit shall be deposited with the County Treasurer by the subdivider in a sum equal to one hundred and twenty-five (125) percent of the County's estimated cost of all improvements required under this Ordinance and /or denoted on the preliminary plat. The total cost shall include all costs incurred by the County for engineering, inspection and legal fees and other expense in connection with the making of improvements. The County shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the County for completion of the work in case of default of the subdivider under agreement, and for any damages sustained on account of any breach thereof. Upon completion of each improvement based on the County Highway Engineer's recommendation that the said improvement has been satisfactorily complete, the County Board may authorize payment for said improvement. Upon completion of all the improvements, the balance remaining in said deposit shall be refunded to the subdivider.

In lieu of making the escrow deposit, a performance bond with corporate surety may be deposited with the County Treasurer by the subdivider in a penal sum equal to one hundred and twenty-five (125) percent of the County's estimated cost of all improvements required under this Chapter and/or denoted on the preliminary plat. This bond shall be subject to the same conditions as required of an escrow deposit.

3. No final plat shall be approved by the County Board without first receiving a report from the County Engineer certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances. Drawings showing all improvements as built shall be filed with the County Engineer.
4. No final plat shall be approved by the County Board on land subject to flooding or contain poor drainage facilities and on land which would make adequate drainage of the streets or roads and lots impossible. However, if the subdivider agrees to make improvements which will assure that each lot contains a flood free site for location of a dwelling; designs roads so that the finished surface is not more than two (2) feet below the regulatory flood protection elevation; locates or designs public utilities and facilities, such as sewer, gas, electrical and water systems to provide protection to the regulatory flood protection elevation; and undertakes other measures which, in the opinion of the County Engineer, will make the area suitable for use without interfering with the flow of water under flood conditions, then the final plat of the subdivision may be approved.

5. All of the required improvements to be installed under the provisions of this Chapter shall be inspected during the course of the construction by the County Engineer. All of the inspection costs pursuant thereto shall be paid by the subdivider in the manner prescribed in paragraph 2 above.

#### 15.4.2 Road and Highway Improvements

1. The full width of the right-of-way shall be graded, including the subgrade of the areas to be paved, in accordance with standards and specifications for road construction as approved by the County Engineer.
2. All roads shall be improved with pavement in accordance with the standards and specifications for road construction as approved by the County Board.
3. All roads to be paved shall be of an overall width in accordance with the standards and specifications for road construction as approved by the County Board.
4. Curb and gutter shall be constructed as required by the standards and specification for road construction as approved by the County Board.
5. Storm sewers, culverts, stormwater inlets, and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specification for road construction as approved by the County Board.
6. Road signs of the standard design approved by the County Board shall be installed at each street or road intersection.

#### 15.4.3 Sanitary Sewer and Water Distribution Improvements

1. Sanitary sewers, both public and private, along with SSTS's, shall be installed as required by standards and specifications as approved by the County Board.
2. Water facilities, both public and private, including pipe fittings, hydrants, etc., shall be installed as required by standards and specifications as approved by the County Board.

#### 15.4.4 Public Utilities

1. All utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles.
2. Where telephone cables, fiber optic cables, tele communications cables, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services. All drainage and other underground utility installations, which traverse privately owned property, shall be protected by easements.

### 15.4.5 Floodplain Warning Signs

Upon Planning Department recommendation and Planning Commission and County Board Approval, areas within the floodplain the developer shall install warnings signs by means of firmly placed markers of a sufficient size to be easily read from a distance of twenty (20) feet, signs shall be installed prior to the sale and construction of any buildings or structures.

### 15.4.6 Wetland Warning Signs

Upon Planning Department recommendation and Planning Commission and County Board Approval, areas within a wetland the developer shall install warnings signs by means of firmly placed markers of a sufficient size to be easily read from a distance of twenty (20) feet, signs shall be installed prior to the sale and construction of any buildings or structures.

## 15.5 Variances

A subdivider may seek a variance(s) from the standards contained in the Subdivision Regulations through the process described in Chapter #5. The Board of Adjustment must grant the sought after variance(s) before the subdivider may proceed with the subdivision approval process. If the Board of Adjustment denies the variance(s), the subdivider must revise the preliminary plat to ensure the plat complies with this Chapter. Alternatively, the subdivider may provide to the Planning Department during the submission of the preliminary plat a substitution to the design standards and requirements of this Chapter. The Planning Department will review the proposed substitution alongside the Comprehensive Plan objectives and contemporary planning practices to ensure the substitution raises the overall quality of the development.



## CHAPTER 16: ROAD/HOUSE SIGN SPECIFICATIONS

### 16.1 Official Road Sign Specifications

All signs, posts, fasteners, and mounting brackets shall conform to the template designated as Figure 16.4 and Figure 16.5 and as set forth below.

1. Signs:
  - a. The aluminum name blank shall be a minimum of .08 inches thick. Two (2) blanks shall be required for each street name (one (1) on each side of the mounting post) to provide for double faced signs on lower sign. Upper sign may be a single or double blank with lettering on each side.
  - b. Minimum length of the aluminum name blank shall be twenty-four (24) inches. Blanks shall be 0.10 inches thick if length of blank exceeds thirty (30) inches.
  - c. Facing material shall be "DG3 Grade" reflectorized green background with white "DG3 Grade" reflectorized upper case lettering and/or numbers.
  - d. Road name or number identification lettering shall be a minimum of six (6) inches tall.
  - e. The sign must be mounted so the bottom of the name plate is displayed at least seven (7) feet above the adjacent road surface.
  - f. Private Road Signs:
    - I. All private road signs shall follow standards set forth in section 16.1 and in addition the words "Private Road" shall be displayed in one and one half (1.5) inch lettering in "DG3 Grade" reflectorized material.
2. Posts. Two (2) green painted steel channel posts shall be used to mount each sign. Upper post shall be 2#/Ft material, eight (8) feet in length. Lower post shall be 3#/Ft material, six (6) feet in length. The post must be set at least three (3) feet below ground surface.
  - a. Where possible signs may be mounted on existing "Stop" or "Yield" signs.
3. Mounting Brackets. Mounting brackets shall be 91UF-OL90 (M&R signs or equal).
4. Fasteners. Mounting hardware shall be 5/16 inch diameter galvanized or stainless steel bolts with steel and nylon washers. Signs may also be welded if necessary.

### 16.2 Official House Numbering Sign Specifications

All signs, posts, fasteners, and mounting brackets shall conform to the template designated as Figure 16.6 and Figure 16.7 and as set forth below.

1. Signs
  - a. The aluminum name blank shall be a minimum of .08 inches thick.

# Chapter 16

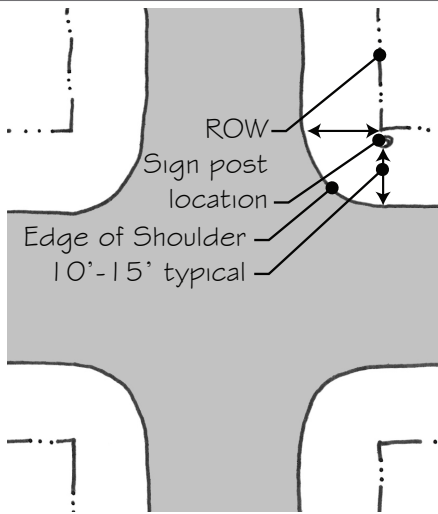


Figure 16.1 Typical Sign Location

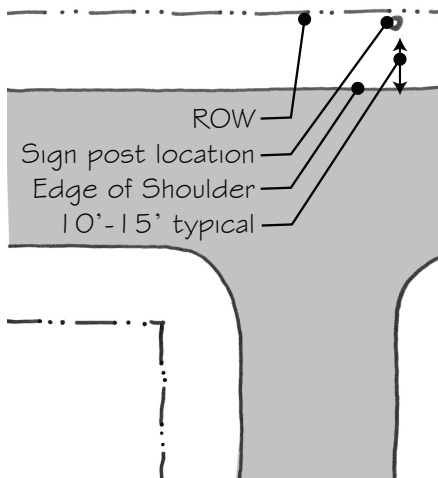


Figure 16.2 Typical Sign Location

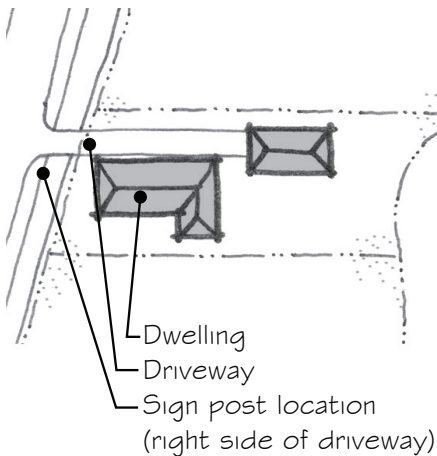


Figure 16.3 House Number Sign Location

- b. Minimum width of the aluminum name blank shall be six (6) inches. Minimum length shall be twenty (20) inches.
  - c. Facing material shall be "DG3 Grade" reflectorized blue background with white "DG3 Grade" reflectorized numbers.
  - d. House number identification lettering shall be four (4) inches tall.
2. Posts. 2#/Ft green painted steel channel posts, eight (8) feet in length, shall be used to mount each sign. The post must be set at least three (3) feet below the ground surface.
  3. Fasteners. Mounting hardware shall be 5/16 inch diameter galvanized or stainless steel bolts with steel and nylon washers.

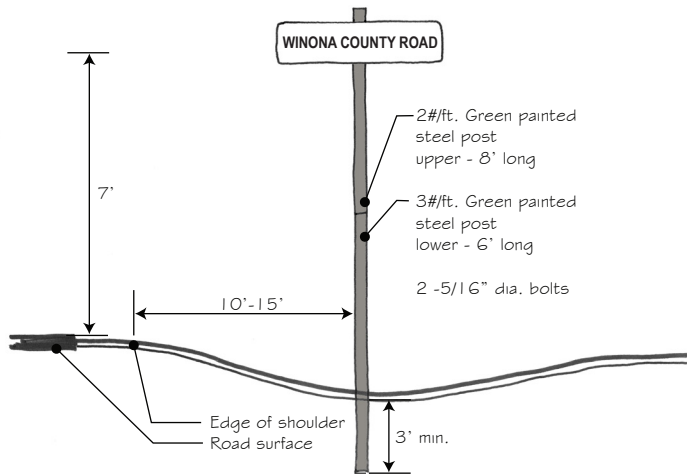


Figure 16.4: Typical Road Intersection Signs

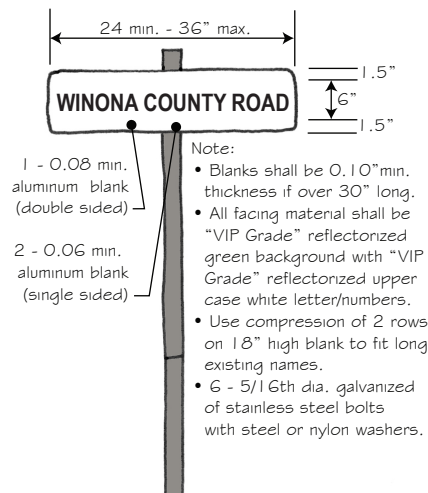


Figure 16.5: Typical Road Intersection Signs

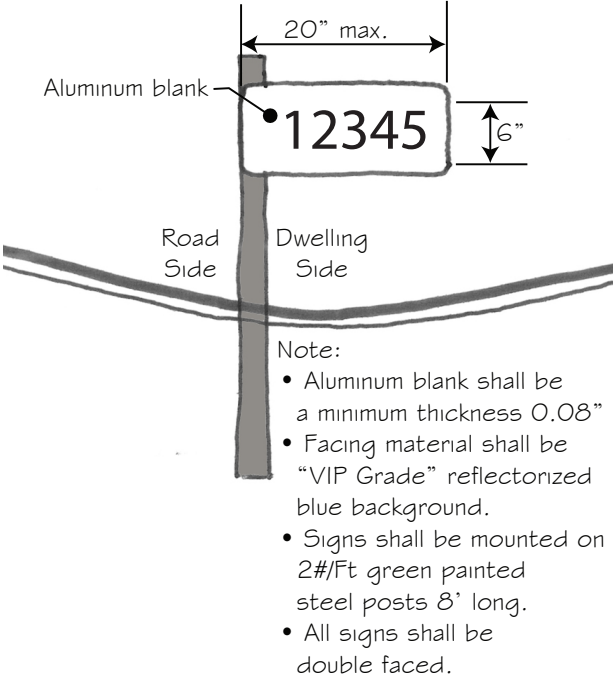


Figure 16.6: Typical House/Address Number Signs

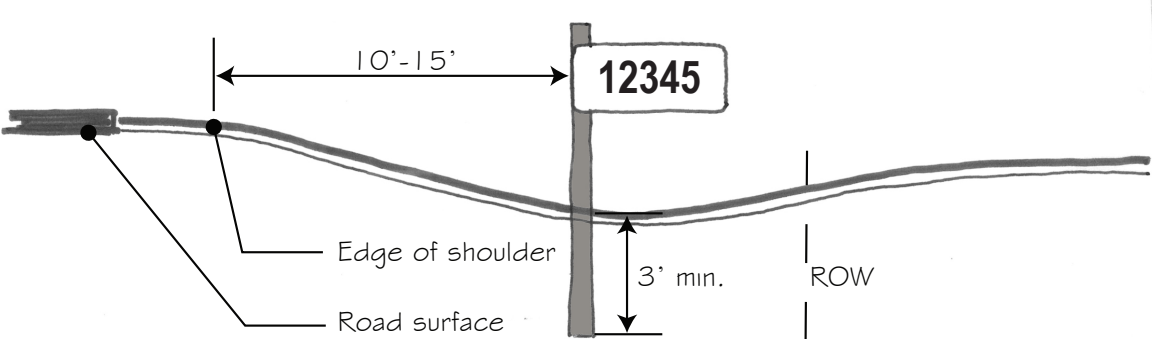


Figure 16.7: Typical House/Address Number Signs

## ORDINANCE AMENDMENT

WHEREAS, the Winona County Board of Commissioners, Winona, Minnesota has on the 7th day of January, 2020, amended Winona County Zoning Ordinance Chapter 4.2: Definitions, Chapter 5: Administration, and Chapter 12.3: Solar Energy Systems; and

WHEREAS, a Notice of Intention to Consider the Winona County Zoning Ordinance Chapters 4.2, 5 and 12.3 amendment to the Winona County Zoning Ordinance on October 17, 2019, at the 7:00 p.m. Planning Commission Meeting in the Commissioner's Room, Winona County Government Center, Winona, Minnesota was published in the Winona Daily News on October 6, 2019 and a second notice of intention to consider the Winona County Zoning Ordinance on December 12, 2019, at the 7:00 p.m. County Board Meeting in the Commissioner's Room, County Office Building, Winona, Minnesota was published in the Winona Daily News on November 27, 2019; and

WHEREAS, proof of such publication is now on file; and

WHEREAS, the County Board of Winona County hereby finds that the Winona County Zoning Ordinance was updated based on direction from the County Board, a Public Hearings held on October 17<sup>th</sup> and December 12<sup>th</sup> and the Planning Commission findings; and

WHEREAS, the Winona County Board of Commissioners hereby finds that the proposed amendments are required by reason of public necessity and general welfare.

NOW THEREFORE, the Winona County Board of Commissioners hereby amends Winona County Zoning Ordinance Chapter 4.2: Definitions, Chapter 5: Administration and Chapter 12.3: Solar Energy Systems.

### Chapter 4.2 Definitions

*SOLAR ENERGY SYSTEM (SES): A device/set of devices or structural design features, a substantial purpose of which is to provide for the collection, storage, and distribution of sunlight for space heating or cooling, generation of electricity, or water heating.*

### Chapter 5 – Administration – 5.5 Conditional Use Permits

#### *5.5.4.7 Criteria for the issuance of a Conditional Use Permit for Large-Scale SES*

*The Planning Commission, before making a recommendation to the County Board regarding a Conditional Use request for a Large-Scale SES, shall ensure the request fulfills all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence to support the following findings in addition to those found in Section 5.5.4.1:*

- 1. The parcel demonstrates the capacity to safely accommodate the proposed SES by not posing a risk to adjacent residential uses, public infrastructure and/or thoroughfares.*
- 2. The proposed Large-Scale SES will not create adverse effects produced by stray voltage.*
- 3. The proposed Large-Scale SES will not create glare impacting adjacent roads and/or nearby properties.*

### 12.3 Solar Energy Systems

#### *12.3.1 Standards*

*All Solar Energy Systems (SES) shall comply with the following standards.*

1. *Roof-Mounted SES*

- a. *Roof-mounted SES are designed to supply energy for the primary use and are permitted accessory uses in all districts.*
- b. *No land use permit (Development Certificate) is required for a Roof-Mounted SES.*
- c. *Height. Building or roof mounted SES shall not exceed the maximum allowed height in any zoning district or ten (10) feet above the highest portion of the building, whichever is lower.*
- d. *Location within lot. SES must meet the accessory structure setback for the zoning district.*
- e. *In addition to the building setback, the collector surface and mounting devices for roof-mounted SES that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.*

2. *Small-Scale SES*

- a. *Small-Scale SES are ground-mounted systems permitted as accessory uses in all districts and primarily designed to supply energy to the primary use on the property.*
- b. *Small-Scale SES require a Development Certificate and are required to meet the performance standards for the district in which it is located.*
- c. *Height. Small-Scale SES shall not exceed thirty five (35) feet in overall height, or as otherwise specified in the zoning district, whichever is lower.*
- d. *Location within lot. Small-scale ground-mounted SES must meet the structural setback standards for the zoning district when oriented at minimum design tilt.*

3. *Large-Scale SES*

- a. *Large-Scale SES have a project boundary of one (1) acre or larger, primarily designed to supply energy for off-site uses on the distribution grid.*
- b. *Large-Scale SES are conditional/interim uses in zoning district(s) where they are allowed and are required to meet the applicable performance standards for the district in which they are located.*
- c. *Height. Large-Scale SES shall not exceed thirty five (35) feet in overall height, or as otherwise specified in the zoning district in which it is located, whichever is lower.*
- d. *Setback. Large-Scale SES shall not be constructed within 300 feet of a neighboring dwelling, not including the home of the property owner developing the solar energy system.*
- e. *Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground or in conduit overhead to an inverter if the system is fenced in. Exemptions may be granted in instances where shallow bedrock, water courses, or other natural features interfere with the ability to bury lines.*
- f. *Vegetative Screening or Buffering. Screening or buffering shall take into account existing screening, be based on the proximity of the system to residential buildings and to abutting public rights-of-way, and shall incorporate adequate coniferous trees and/or deciduous trees and shrubs in order to provide an effective visual screen.*
  - I. *A Landscape Plan approved by the Planning and Environmental Services Department shall be required in accordance with Chapter 9.1.5 of the Winona County Zoning Ordinance (WCZO). The Landscape Plan shall be maintained in the file and may be updated with the approval of the Planning and Environmental Services Department. The Landscape Plan shall include:*
    - i. *Identification of existing vegetation on the installation site, including type and percent of coverage.*

- ii. *A landscaping plan that addresses ground cover as well as screening or buffering of neighboring properties, dwellings, and road right-of-way.*
- iii. *A maintenance plan for optimizing vegetative growth on site upon installation of the SES.*
- II. *Ground cover shall consist of perennial vegetation and incorporate pollinator friendly species as prescribed by the Winona County Soil and Water Conservation District or other qualified individual approved by the Planning and Environmental Services Department.*
- g. *Stormwater and Erosion Control. Large-Scale SES are subject to Winona County's stormwater management, erosion, and sediment control provisions, pursuant to Chapter 9.15 of the WCZO and any State permit requirements. An Erosion and Sediment Control Plan, approved by the Planning and Environmental Services Department, is required and shall be maintained in the file. The Erosion and Sediment Control Plan may be updated with the approval of the Planning and Environmental Services Department.*
- h. *Decommissioning.*
  - I. *Decommissioning process and costs shall include removal of all above-ground facilities and all underground support structures, the cost of returning the land to the agricultural use for which it was zoned at the time of the issuance of the CUP/IUP, and the costs of maintenance and repair of roads that may be impacted while decommissioning.*
  - II. *A Decommissioning Plan is required and shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The cost estimates shall be made by a competent third party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The Decommissioning Plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the system. Modification of a decommissioning plan shall require an amended CUP/IUP.*
  - III. *Decommissioning of the system must occur within ninety (90) days from either of the following:*
    - (a) *The end of the system's serviceable life; or*
    - (b) *The system becomes a discontinued use. A system shall be considered a discontinued use after one (1) year without energy production, unless a plan is submitted and approved by the Planning and Environmental Services Department outlining the steps and schedule for returning the system to service.*
  - IV. *The County Board may require the owner and/or operator of the Large-Scale SES to provide financial security in the form of an escrow, bond, or irrevocable letter of credit to ensure that decommissioning shall be completed if the applicant or operator for any reason fails to meet the requirements of this chapter.*

### 12.3.2 Applications

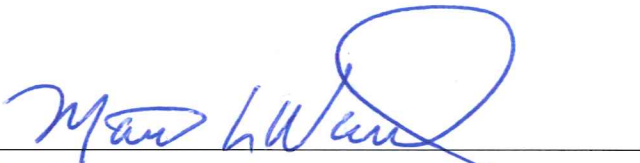
- 1. *Applications for all Small-Scale and Large-Scale SES shall include the following:*
  - a. *A site plan of existing and proposed conditions, pursuant to Chapter 6.11.2 of the WCZO.*
  - b. *Number and size of solar collectors to be installed.*
  - c. *Energy capacity of the SES in kw/MW.*
  - d. *A description of the method of connecting the array to a building or substation and a signed copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.*
  - e. *Planned location of underground or overhead electric lines connecting the SES to the building, substation or other electric load.*

- f. New electrical equipment other than at the existing building or substation that is the connection point for the SES.*
  - g. Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems, and foundations for poles or racks.*
  - h. Existing and proposed (if existing grade will be altered) topography at two (2) foot contours.*
2. *Applications for Large-Scale SES shall also include the following:*
- a. Visual Impact Analysis. Discuss the potential visual impacts of the project and identify any measures to avoid, minimize, or mitigate visual impact.*
  - b. Stormwater and Erosion Control Plan.*
  - c. Landscape Plan.*
  - d. Soil Capability Map. Showing soil survey land capability classifications and including a calculation of acres of class I-III soils and percentage of total acres.*
  - e. A statement on the applicability of Wetland Conservation Act requirements as they relate to the proposed project.*
  - f. A statement on the applicability of archaeological review and survey requirements.*
  - g. Identification of onsite measures that will be taken to avoid, minimize, or mitigate adverse effects to existing historical, cultural, and archaeological features identified by the State Historic Preservation Office, the County's databases, and those discovered onsite.*
  - h. Decommissioning Plan.*


A complete copy of this ordinance marked "Official Copy" is on file in the County Auditor's Office for review and use by the public during normal business hours.

This ordinance is hereby ordered effective January 7, 2020.

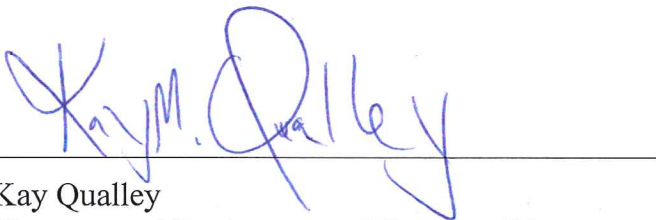
Passed and adopted this 7th day of January, 2020.



Marcia Ward, Chairperson  
Winona County Board of Commissioners



Ken Fritz  
Winona County Administrator



Kay Qualley  
Planning and Environmental Services Director

## Findings of Fact

Pursuant to Chapter 5.4.2(2)(f) of the Winona County Zoning Ordinance, the Winona County Planning Commission makes the following Findings of Fact based on the record:


1. The Winona County Zoning Ordinance includes Chapter 12.3 regarding Solar Energy Systems and regulations relating to such systems, as well as definitions relating to Solar Energy Systems. There are currently no specific Solar Energy System criteria for evaluation of a Conditional/Interim Use Permit for such systems.
2. The current ordinances regarding Solar Energy Systems were enacted prior to consideration of large-scale solar gardens in Winona County and the revisions are reasonable to address such projects.
3. The current ordinance includes definitions that are inconsistent or outdated and it is reasonable to remove those from the ordinance.
4. Large-scale Solar Energy Systems are unique and it is reasonable to require additional criteria to be considered for a Conditional/Interim Use Permit.
5. The revisions to the ordinance are in the best interests of Winona County and should be required by reason of public necessity and general welfare.

and recommends that the Winona County Board of Commissioners adopt these findings and

**APPROVE**    **DENY**

the amendment to the Winona County Zoning Ordinance.

Date: October 17, 2019

  
\_\_\_\_\_  
Eugene Hansen  
Chairperson, Winona County Planning Commission



**PERVIOUS SURFACE:** A surface which allow the penetration of water into the ground.

**PHASE ONE ARCHAEOLOGICAL SURVEY:** An effort to locate and record archaeological sites. The survey shall be conducted in accordance with the State Historic Preservation Office (SHPO) document entitled SHPO Manual for Archaeological Projects in Minnesota (July 2005), or as amended. Winona County requires a qualified professional archaeologist, as defined by Minnesota State Statutes 138.31, Subdivision #14, or entities listed on the Archaeological Contractors List compiled by the State Historic Preservation Office (SHPO) to conduct and prepare the survey.

**PLAIN:** An area of land with relatively low relief, meaning that it is flat.

**PLANNING DEPARTMENT:** The Winona County Planning Department.

**PLANNING DIRECTOR:** The Planning Director of the Winona County Planning Department or the Director's authorized representative.

**PLOT:** A tract of land other than one (1) unit of a record 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 including as a minimum such open space as required under this Ordinance.

**PORTABLE BUILDING:** A structure that can be moved with wheels or skids when empty.

**POTENTIAL POLLUTION HAZARD:** An animal feedlot or manure storage area that:

- a. Does not comply with the requirements of parts 7020.20000 to 7020.2225 and has not been issued an SDS or NPDES permit establishing an alternative construction or operating method; or
- b. Presents a potential or immediate source of pollution to waters of the State as determined by inspection by a County Feedlot Pollution Control Officer or Agency staff by evaluating the following:
  - I. The size of the animal feedlot or manure storage area;
  - II. The amount of pollutants reaching or that may reach waters of the state;
  - III. The location of the animal feedlot or manure storage area relative to waters of the state;
  - IV. The means of conveyance of animal manure or process wastewater into waters of the state; and
  - V. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal manure or process wastewater into waters of the state.

**PRACTICAL DIFFICULTY:** As defined in Minnesota Statutes, Chapter 394: Practical Difficulty as used in connection with granting a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

## RULES & DEFINITIONS

**USE, PERMITTED:** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**USE, PRINCIPAL:** The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal" use may be either permitted or conditional.

**USE, SEMI PUBLIC:** 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.

**USE, SUBSTANDARD:** Any use existing prior to the adoption of this Ordinance or amendments thereto which is allowed either as a permitted or conditional use but does not meet the minimum lot area, height, yard, width, setbacks or depth standards.

**USE, SURFACE WATER-ORIENTED COMMERCIAL:** 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.

**UTILITIES:** Refers to all utility service providers, whether the same be government owned facilities or furnished by private utility companies.

**VALLEY:** The land between hills or mountains, possibly containing a stream or river.

**VARIANCE:** Any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary practical difficulties.

**VERTICAL CURVE:** The surface curvature on a road or highway center line located between lines of different percentage of grade.

**VETERINARY HOSPITAL OR CLINIC:** A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation, and/or recuperation. It may also include boarding that is incidental to the primary activity, but does not include a kennel.

**WAREHOUSE:** A building used primarily for the storage of goods and materials.

**WATER SUPPLY SYSTEM, COMMUNITY:** A system providing water for human consumption and either containing at least fifteen (15) service connections or living units by year-round residents, or regularly serves at least twenty five (25) year-round residents.

**WATERS OF THE STATE:** All streams, lakes, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portions thereof.

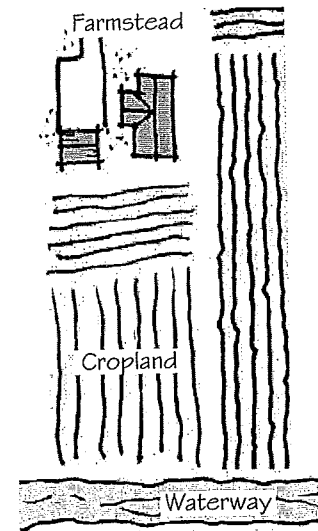


Figure 4.33 Example of waterway adjacent to farmstead

## Appeal to District Court

*All decisions by the Board of Adjustment or the Variance Hearing Officer, in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the district court in the county in which the land is located on questions of law and fact.*

*Any party that would like to submit an appeal to the decision just rendered at a public hearing must do so to the District Court. The Planning Department is not responsible for filing the appeal.*

Figure 5.4 Appeal to District Court

## 5.6 Variances

### 5.6.1 Purpose

The purpose of this section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of physical circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

### 5.6.2 General Provisions and Standards for Evaluating a Variance

1. The Winona County Board of Adjustment shall not grant a variance from the regulations of this Ordinance unless it shall make findings of fact based upon the evidence presented and on the following standards as required by Minnesota State Statute 394.27 Subd. 7.
  1. The variance request is in harmony with the intent and purpose of the ordinance.
  2. The variance request is consistent with the comprehensive plan.
  3. The applicant has established that there are practical difficulties in complying with the official control

- and proposes to use the property in a reasonable manner.
4. The variance request is due to special conditions or circumstances unique to the property not created by owners of the property since enactment of this Ordinance.
  5. The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.
  6. Economic considerations alone do not constitute practical difficulties.
  7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum variance which would alleviate the practical difficulty.
  8. The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by State Law.
2. When deciding on a petition regarding the Floodplain District the Board of Adjustment must also satisfy the following additional criteria of the Federal Emergency Management Agency:
1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  2. Variances shall only be issued by Winona County upon:
    1. A showing of good and sufficient cause, and
    2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    3. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.

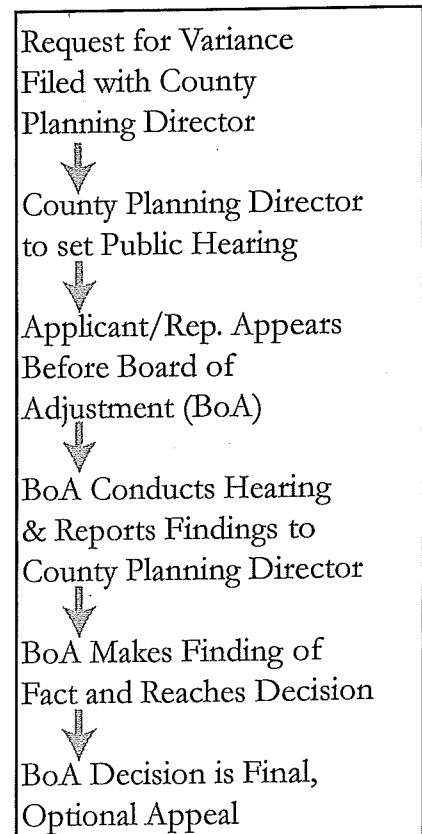


Figure 5.5 Variance Process

## Chapter 5

4. Should the Board of Adjustments find that the conditions outlined heretofore apply to the proposed lot or parcel, the County may grant a variance from the strict application of this Ordinance so as to relieve such practical difficulties to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Ordinance.
5. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls.
6. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
7. The Board of Adjustment shall arrive at a decision on such appeal or variance in accordance with Minnesota Statute Section 15.99 also known as the "Sixty (60)-day law." It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions.

## Chapter 12

### Highlights from the Winona County Comprehensive Plan:

#### Sustainability Value Statement

Winona County promotes a sustainable community through the encouragement of sustainable development. A sustainable community uses its resources to meet current needs while ensuring that adequate resources are available for future generations. A sustainable community seeks a better quality of life for all its residents while maintaining nature's ability to function over time by minimizing waste, preventing pollution, promoting efficiency and developing local resources to revitalize the local economy. Decision-making in a sustainable community stems from a rich civic life and shared information among community members. A sustainable community resembles a living system in which human, natural and economic elements are interdependent and draw strength from each other.

## CHAPTER 12: RENEWABLE ENERGY

### 12.1 Purpose

The purpose of the Chapter is to promote the installation and construction of renewable energy systems throughout Winona County to ensure residents have the access to affordable, efficient, reliable, and environmentally sound energy options. The provisions contained in this Chapter have the function through reasonable restrictions and standards, to preserve the public health and safety without significantly increasing the cost or decreasing the efficiencies of renewable energy systems, and to protect esthetic resources within the County. The types of systems covered in this chapter include Wind Energy Conversion Systems (WECS), Solar Energy Systems, and Geothermal Energy Systems.

### 12.2 Wind Energy Conversion Systems (WECS)

Establish regulations relating to the installation and operation of public and private Wind Energy Conversion Systems (WECS) within Winona County Zoning authority not otherwise subject to siting and oversight by the State of Minnesota under applicable State Statues.

#### 12.2.1 Procedures

WECS, public and/or private based upon total kW output, require a Development Certificate located in Chapter 6, or a Conditional Use Permit and shall be applied for and reviewed under the procedures established in Chapters 5 and 6.

The application for all WECS shall include the following information in addition to the requirements of the Development Certificate located in Chapter 6:

1. Recorded property easments.
2. A description of the project including: number, type, tower height, rotor diameter, and total height of all wind turbines.
3. Site layout, including the location of property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures.

The application for WECS larger than 100 kW shall also include the following information in addition to the requirements of the Development Certificate located in Chapter 6:

1. The latitude and longitude of individual wind turbines.
2. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.
3. Location of wetlands, floodplain, shoreland, sensitive natural features, scenic, and natural areas, including bluffs, within quarter (1/4) mile of the proposed WECS.
4. Engineer's certification.

5. Location of all known Communications Towers within two (2) miles of the proposed WECS.
6. Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost of removing the WECS shall be estimated by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities, in the form of a bond, or a line of credit, or cash deposit in an amount one hundred and five (105) percent of the total decommission cost.
7. Mitigation plan, in reference to public infrastructure for construction and decommissioning.
8. Plan for On-Site Storage of materials, if applicable.

**12.2.2 Conditional Use Permit**

Section 5.5.4.6 of Chapter 5 of this Ordinance describes the procedure for obtaining a Conditional Use Permit for WECS larger than 100 kW.

**12.2.3 Aggregated Projects – Procedures**

Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews and as appropriate approvals. Development Certificates will be issued and recorded separately.

Joint applications will be assessed fees as one (1) project. Aggregated projects having a combined capacity equal to or greater than the threshold for State oversight as set forth in MS Statutes shall be regulated by the State of Minnesota.

**12.2.4 District Regulations**

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the Table 12.1.

Zoning District	WECS 100 kW and smaller	WECS larger than 100 kW	Meteorological Tower
A/RC - RH	DV	CUP	DV
RR	DV	CUP	DV
CD/ CD2	DV	CUP	DV
UR	DV	CUP	DV
B	DV	CUP	DV
I	DV	CUP	DV
Shoreland	CUP	CUP	CUP
Floodplain	CUP	CUP	CUP

A/RC - RH	Agricultural / Resource Conservation
RR	Rural Residential
CD/CD2	Community Development
UR	Urban Residential
B	Business and Recreation
I	Industrial

DV	Development Certificate
CUP	Conditional Use Permit

# Chapter 12

As a reminder to installation of WECS shall comply with all State and Federal rules.

## 12.2.5 Performance Standards

### 1. Setbacks:

\*measured from the center of the tower base:

- a. WECS larger than 100kW: 1.1 times the total height from all Meteorological Towers and property lines.
- b. WECS 100 kW and smaller: 1.1 times the total height from property lines.
- c. Road Right of Ways: 1.1 times the total height from all Wind Turbines and Meteorological Towers.
- d. Other above ground right of ways (railroad, utility lines, gas lines, etc.): 1.1 times the total height from all WECS and Meteorological Towers.
- e. Wetlands USFW Types III, IV, and V: 1.1 times the total height from all WECS and Meteorological Towers.
- f. Bluffs: WECS 100kW and smaller: two (2) times the total height of turbine from the top or toe of a bluff.

	WECS 100 kW and smaller	WECS larger than 100 kW	Meteorological Tower
Property Lines	1.1 th*	1.1 th	1.1 th
Road Right of Ways	1.1 th	1.1 th	1.1 th
Other above ground Right of Ways (railroad, utility, gas lines)	1.1 th	1.1 th	1.1 th
Wetlands USFW Types III, IV, and V	1.1 th	1.1 th	1.1 th
Bluffs	2 times the total height of turbine from top or toe of bluff	Review through CUP process (see Chapter 5)	N/A

\* "th" is an abbreviation for "Total Height".

### 2. Safety Design Standards:

- a. For WECS larger than 100kW, the manufacturers engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- b. Rotor blades or air foils must maintain at least sixteen (16) feet of clearance between their lowest point and the ground.

### 3. Design Standards

- a. Finishes shall be matte or nonreflective.



- b. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for Metrological Towers, where concerns exist relative to aerial spray applicators.
- c. The manufacturer's or owner's company name and logo, relating to the WECS, may be placed upon the nacelle, tail or the compartment containing the electrical generator of the WECS. No off site advertising may be placed, attached, or hung upon the nacelle, tower, blades or upon a substation.
- d. All communications and feeder lines, less than or equal to 34.5 kV in capacity and installed as part of a WECS shall be buried where reasonably feasible.
- e. WECS larger than 100kW shall be anchored to objects that have been approved by the manufacture of the WECS. If an alternative mounting structure is desired a statement from a licenced structural engineer shall be submitted to Winona County stating that the WECS can be safely mounted to an alternative structure.
- f. WECS larger than 100kW shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to Winona County outlining the steps and schedule for returning the WECS to service.

**12.2.6 Interference**

The applicant of WECS larger than 100kW shall notify all communication tower operators registered with the Federal Communication Commuission (FCC) within five (5) miles of the proposed WECS location upon application to the county for permits to construct the WECS.

**12.2.7 Avoidance and Mitigation of Damages to Public Infrastructure**

Applicants of WECS larger than 100kW shall:

- 1. Identify all county, city or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authorities prior to construction.
- 2. The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

**12.3 Solar Energy Systems**

Solar Energy Systems are a permitted accessory use in all zoning districts, subject to the following standards.

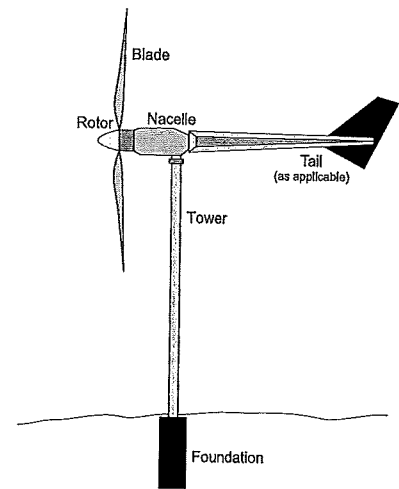


Figure 12.1 WECS Parts Identified

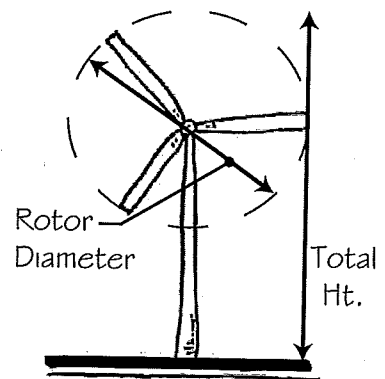


Figure 12.2 WECS Dimensions

## Chapter 12

As a reminder to installers of Solar Energy Systems, the system shall comply with the Minnesota State Electric Code.



Figure 12.3 Roof Mounted Solar Energy Systems Height

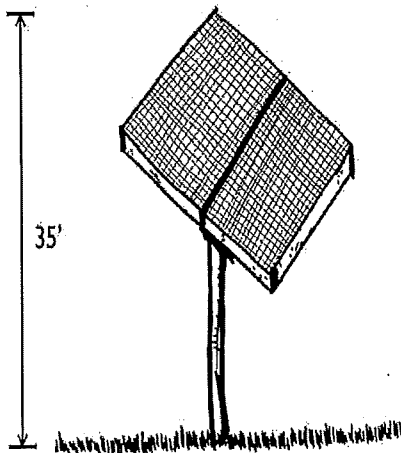


Figure 12.4 Ground Mounted Solar Energy Systems Height

1. Height.
  - a. Building or roof mounted Solar Energy Systems shall not exceed ten (10) feet above the highest portion of the building.
  - b. Ground-mounted Solar Energy Systems shall not exceed thirty five (35) feet in overall height.
2. Location within Lot. Solar Energy Systems must meet the accessory structure setback for the zoning district.
  - a. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted Solar Energy Systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
  - b. 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.
  - c. Large Ground-mounted Systems. In the A/RC Ground-mounted Solar Energy Systems that result in the creation of (1) one or more acres of impervious surface must:
    - I. apply for a Conditional Use Permit and,
    - II. Follow MPCA Stormwater Standard
3. No owner, occupier or person in control of property shall allow vegetation or structures to be placed or grow so as to cast a shadow on a Solar Energy System which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard Time on December 21 provided, however, this standard shall not apply to vegetation or structures which casts a shadow upon the Solar Energy System at the time of installation of said Solar Energy System or to vegetation existing at the time of installation of said Solar Energy System.
  - a. Violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because of such violation, so that performance of the system is impaired, may have in tort for damages sustained thereby and may have such nuisance abated.
  - b. As a means of evidencing existing conditions, the owner of a Solar Energy System may file notarized photographs of the affected area with the County prior to installation of said system.

### 12.4 Geothermal Energy Systems

Geothermal Energy Systems are allowed in all zoning districts, subject to the following standards.

#### 12.4.1 Land Disturbance Permit

A Land Disturbance Permit, located in Chapter 6 is required for the following situations when installing a Geothermal Energy System:

## RENEWABLE ENERGY

- a. When there is to be excavation or filling of land that would deprive an adjoining property owner of lateral support.
- b. When there is to be excavation of earthen material of more than one thousand (1,000) cubic yards, for the installation of a geothermal heat pump system.
- c. When there is to be excavation of earthen material, for the installation of a geothermal heat pump system located within Shoreland, Floodplain, or on steep slopes as described in Chapter 11.

More Information regarding Geothermal Energy Systems can be found here:  
<http://www.health.state.mn.us/divs/eh/wells/geothermal.html>

### **5.5.4.6 Criteria for the Issuance of a Conditional Use Permit for WECS Larger than 100kW.**

The Planning Commission, before making a recommendation to the County Board regarding a Conditional Use request for a WECS larger than 100kW shall ensure the request fulfils all specific standards of the Winona County Zoning Ordinance, and shall find adequate evidence that the use adequately addresses the issues/concerns:

1. The parcel under consideration for the installation of a WECS demonstrates the capacity to safely accommodate the proposed WECS by not posing a risk to adjacent residential uses, public infrastructure, and/or thoroughfares.
2. The proposed WECS will not have adverse effects of stray voltage, or interfere with cellular, radio, or television signals.
3. The evaluation of the potential fall zone based on Table 12.4 (pg.242) to determine the absence of obvious conflict points.
4. Consideration shall be given in that the proposed location shall not create undue burden onto neighboring properties and structures in which the WECS could create a moving shadow created by the sun shining on rotating turbine blades.
5. For all WECS, the manufacture's engineer or another qualified engineer shall certify that the overall design of the apparatus and its installation is within accepted professional standards.
6. The proposed WECS shall consider visual impacts.