

WRIGHT COUNTY, MINNESOTA

CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Title of code
- 10.02 Rules of interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices
- 10.09 Errors and omissions
- 10.10 Official time
- 10.11 Reasonable time
- 10.12 Ordinances repealed
- 10.13 Ordinances unaffected
- 10.14 Effective date of ordinances
- 10.15 Repeal or modification of ordinance
- 10.16 Ordinances which amend or supplement code
- 10.17 Preservation of penalties, offenses, rights and liabilities
- 10.18 Copies of code
- 10.19 Adoption of statutes and rules and supplements by reference
- 10.20 Enforcement

- 10.98 Supplemental administrative penalties
- 10.99 General penalty and enforcement

§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the county, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the "Wright County Code", for which designation "code of ordinances", "codified ordinances" or "code" may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01". Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of the county shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) **AND** or **OR.** Either conjunction shall include the other as if written "and/or", whenever the context requires.

(2) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD or **BOARD OF COUNTY COMMISSIONERS.** The governing body of Wright County, Minnesota.

CITY. An area within the corporate boundaries of the county, as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **CITY**, when used in this code, may also be used to refer to a city council and its authorized representatives.

CODE, THIS CODE or **THIS CODE OF ORDINANCES.** This county code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Wright County, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath and, in those cases, the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or **DEPARTMENT.** An officer, office, employee, commission or department of the county unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof; and, as applied to corporations, the officers or agents

thereof.

PRECEDING or **FOLLOWING**. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION**. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

TOWN. An area within the corporate boundaries of the county, as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **TOWN**, when used in this code, may also be used to refer to a town council and its authorized representatives.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the county exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied,

omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within the county for the transaction of all county business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the County Board of Commissioners shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

(A) The official copy of this code shall be kept in the office of the County Clerk for public inspection.

(B) The Clerk shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES AND RULES AND SUPPLEMENTS BY REFERENCE.

(A) It is the intention of the County Board of Commissioners that, when adopting this code of ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) It is the intention of the County Board of Commissioners that, when adopting this code of ordinances, all future supplements are hereby adopted as if they had been in existence at the time this code was enacted, unless there is clear intention expressed in the code to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the County Sheriff's Department, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the County Clerk shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk or the County Board of Commissioners shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The County Clerk and any county official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the County Clerk, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident or other person in control of property within the county shall permit at reasonable times inspections of or entrance to the property by the County Clerk or any other authorized county officer or employee only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or county service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the County Clerk to object to the termination before it occurs, subject to appeal of the Clerk's decision to the County Board of Commissioners at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the county to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in §10.20 of this chapter, the County Board of Commissioners is authorized to create by resolution, adopted by a majority of the members of the Board of Commissioners, supplemental administrative penalties.

(B) These administrative penalty procedures in this section are intended to provide the public and the county with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the County Board of Commissioners. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, County Clerk or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the County Treasurer within 14 days of the notice of the violation. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the County Board of Commissioners to contest the request for payment of the penalty. After a hearing before the Board, the Board may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Board.

(F) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the county, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the county, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Board resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the county for the alleged violation.

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(C) Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the county to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

(E) In addition to any penalties provided for in this section or in §10.98 of this chapter, if any person, firm or corporation fails to comply with any provision of this code, the Board or any county official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

TITLE III: ADMINISTRATION

Chapter

30. COUNTY POLICIES

31. COUNTY OFFICIALS

CHAPTER 30: COUNTY POLICIES

Section

Supportive Care

- 30.01 Findings
- 30.02 Purposes
- 30.03 Conditional use
- 30.04 Request procedure
- 30.05 Home care assessment process
- 30.06 On-site inspection process
- 30.07 Consideration by Board of Commissioners
- 30.08 Periodic review
- 30.09 Removal of dwelling
- 30.10 Opt-out of M.S. § 394.307

SUPPORTIVE CARE

§ 30.01 FINDINGS.

The County Board of Commissioners finds:

- (A) A crisis for the care of frail, elderly and disabled individuals exists;
- (B) For many individuals, there are no economically reasonable means of addressing their health care problems;
- (C) The temporary placement of mobile homes, as defined by the County Zoning Ordinance, within a reasonable proximity to other family members, will permit some individuals home health care in lieu of institutionalization;
- (D) Without supportive home health care, some individuals are at risk of institutionalization;
- (E) The temporary nature of such auxiliary housing will have minimal impact upon the public health, safety, order, convenience and general welfare of the county as it relates to the arrangement of buildings on lots and density of population; and
- (F) The County Board of Commissioners, as opposed to the County Health and Human Services Board, is uniquely situated so as to more appropriately deal with this unique aspect of the continuum of health care and support for the elderly in the county.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.02 PURPOSES.

The purposes of this chapter are to:

- (A) Provide adequate health care and maintenance to frail, elderly or disabled persons while maintaining the family unit; and
- (B) Provide adequate health care and maintenance to frail, elderly or disabled persons at minimal cost to the individual and society.

(Ord. passed 11-10-1998)

§ 30.03 CONDITIONAL USE.

Notwithstanding the provisions of any other law to the contrary, the County Board of Commissioners may authorize the temporary placement of mobile home, as defined by the County Zoning Ordinance, upon any parcel within the unincorporated areas of the county, except in the R-1 Zone, for the use and habitation of persons found to meet the eligibility factors set forth by this chapter.

(Ord. passed 11-10-1998)

§ 30.04 REQUEST PROCEDURE.

(A) Initial requests from a community member for placement of a mobile home for supportive care shall be directed to Health and Human Services. Health and Human Services shall initiate an assessment of need. Following an assessment indicating a need by Health and Human Services, notice of the need for onsite property inspection shall be made to the County Office of Planning and Zoning for the purpose of an on-site inspection of the property.

(B) The request may include a release allowing for disclosure of necessary medical information signed by the individual(s) requesting assistance or the responsible party.

(C) A fee shall be paid at the time the request is made based upon the Health and Human Services sliding fee scale and standard assessment fee for the cost of the assessment.

(D) The County Office of Planning and Zoning shall cause a notice of the intended placement to be sent by regular mail to all persons residing within 500 feet of the proposed structure and to the affected township.

(E) Any persons receiving notice may, within ten days of receiving said notice:

(1) Submit written comment to the County Board of Commissioners through County Administration for its consideration; and

(2) Request a public hearing before the County Board of Commissioners.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.05 HOME CARE ASSESSMENT PROCESS.

(A) Health and Human Services shall initiate the assessment process within 21 working days from the time of receipt of the request

(B) The individual requesting assistance and affected family members will be expected to be present and participate in the home care assessment.

(C) Public Health will conduct an assessment to determine an individual's need for a supportive care environment based on the individual's needs.

(D) Following the assessment, Health and Human Services shall explain to individual(s) requesting assistance and to the affected family members resources available in the community for appropriate supportive care.

(E) Health and Human Services shall notify the applicant, County Administration, and the County Office of Planning and Zoning in writing of its recommendation following the assessment.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.06 ON-SITE INSPECTION PROCESS.

(A) The County Office of Planning and Zoning shall conduct an on-site inspection and submit its findings to the County Board of Commissioners.

(B) The proposed structure and its placement shall meet the following minimal requirements:

(1) Compliance with the Building Code or manufactured home construction and safety standards promulgated by the United States Department of Housing and Urban Development;

(2) Approved septic system or holding tank; and

(3) Compliance with road and property line set backs unless a variance is obtained.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.07 CONSIDERATION BY BOARD OF COMMISSIONERS.

(A) In the event that a public hearing is requested by any of the persons who receive notice pursuant to §30.04(D) of this chapter, notice of such hearing shall be mailed to said persons requesting a hearing at least five days in advance of the hearing.

(B) Health and Human Services shall submit a summary of the assessment results and the recommendation to the County Board of Commissioners and the County Office of Planning and Zoning.

(C) The County Office of Planning and Zoning shall submit a report to the County Board of Commissioners regarding compliance with the requirements set out in § 30.06(B) of this chapter.

(D) The County Board of Commissioners shall grant approval allowing the temporary placement of a structure under this subchapter if:

(1) The Board of Commissioners finds that there is a need and that placement of a temporary structure is a viable alternative to institutionalization of a frail, elderly or disabled person;

(2) The Board of Commissioners finds that the proposed structure and its placement meet the requirements set out in § 30.06(B) of this chapter; and

(3) The Board of Commissioners finds that the placement of a temporary structure will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor will it substantially diminish and impair property values within the immediate vicinity.

(E) In issuing a permit under this subchapter, the Board of Commissioners may make the permit subject to such other conditions as the Board of Commissioners may deem appropriate.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.08 PERIODIC REVIEW.

(A) Health and Human Services shall conduct an annual reassessment, or conduct an assessment based on a change in the permit holder's circumstance when noticed by the permit holder.

(B) The permit holder shall pay an annual fee for this assessment, based upon Health and Human Services' sliding fee scale.

(C) Health and Human Services shall notify the County Board of Commissioners and the County Office of Planning and Zoning upon a finding that the placement of the temporary structure is no longer necessary or appropriate.

(Ord. passed 11-10-1998; Ord. 16-4, passed 8-16-2016)

§ 30.09 REMOVAL OF DWELLING.

(A) Any permit granted pursuant to this subchapter shall become null and void upon a finding by the Board of Commissioners that:

- (1) The need for which the permit was granted no longer exists;
- (2) The need of the individual(s) requiring care is not being adequately met by the placement; or
- (3) The permit holder has failed to comply with the conditions set forth within the permit.

(B) The structure shall be removed from the property by the permit holder within 60 days of termination of the permit.

(Ord. passed 11-10-1998)

§ 30.10 OPT-OUT OF M.S. § 394.307.

Pursuant to authority granted by M.S. § 394.307, Subd. 9, the county opts-out of the requirements of M.S. § 394.307, which defines and regulates temporary family health care dwellings.

(Ord. 16-5, passed 8-16-2016)

CHAPTER 31: COUNTY OFFICIALS

Section

31.01 Special deputies to issue citation in lieu of arrest

§ 31.01 SPECIAL DEPUTIES TO ISSUE CITATION IN LIEU OF ARREST.

An ordinance authorizing the Special Deputies of the Office of the Wright County Sheriff to enforce all applicable state and local statutory and regulatory provisions governing zoning regulations, and parks, trails, water, boat, vehicle or traffic safety through the issuance of citations or other means permitted by state law.

The County Board of Wright County ordains that special deputies duly appointed and sworn by the Wright County Sheriff are hereby granted the authority to enforce, through the issuance of citations and such other means as permitted by state law, the provisions of any state or local statutory or regulatory provision governing zoning regulations and parks, trails, water, boat, vehicle or traffic safety.

(Ord 18-1, passed 3-13-2018)

TITLE V: PUBLIC WORKS

Chapter

50. HIGHWAYS

51. RIGHT-OF-WAY MANAGEMENT

CHAPTER 50: HIGHWAYS

Section

50.01 Trunk Highway 55; official map

§ 50.01 TRUNK HIGHWAY 55; OFFICIAL MAP.

(A) *Purpose.*

(1) Land that will be needed for future expansion of Trunk Highway 55 in the county may be diverted to non-public uses which could have been located on other lands without hardship or inconvenience to the owners.

(2) Identification, on an official map, of land needed for that future expansion permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made which will make such adjustments difficult to accomplish.

(B) *Jurisdiction.* The jurisdiction of this section and the corresponding official map shall apply only to those areas outside the incorporated limits of municipalities.

(C) *Official map.* The official map attached as "Appendix A" to the ordinance codified herein is hereby adopted and may be amended according to the terms of the County Official Map Ordinance, adopted 2-27-2007. The official map is adopted by reference and made a part hereof as if appearing in total and is recorded in the Office of the Wright County Recorder.

(D) *Effect.* All lands covered by this chapter are subject to the terms and provisions of the County Official Map Ordinance, adopted 2-27-2007.

(Ord. 09-01, passed 4-7-2009)

CHAPTER 51: RIGHT-OF-WAY MANAGEMENT

Section

General Provisions

- 51.01 Findings, purpose and intent
- 51.02 Election to manage the public right-of-way
- 51.03 Definitions
- 51.04 Administration
- 51.05 Utility Coordination Committee
- 51.06 Effective date

Registration and Permits

- 51.20 Registration and right-of-way occupancy
- 51.21 Registration information
- 51.22 Reporting obligations
- 51.23 Permit requirement
- 51.24 Permit applications
- 51.25 Issuance of permit; conditions
- 51.26 Permit fees
- 51.27 Denial of permit
- 51.28 Work done without a permit
- 51.29 Supplementary notification
- 51.30 Revocation of permits

Regulations; Administration

- 51.45 Right-of-way patching and restoration
- 51.46 Joint installations
- 51.47 Supplementary applications

- 51.48 Other obligations
- 51.49 Installation requirements
- 51.50 Inspection
- 51.51 Mapping data
- 51.52 Location and relocation of facilities
- 51.53 Pre-excavation facilities location
- 51.54 Damage to other facilities
- 51.55 Right-of-way vacation
- 51.56 Indemnification and liability
- 51.57 Abandoned and unusable facilities
- 51.58 Appeals
- 51.59 Reservation of regulatory and police powers

- 51.99 Penalty

Appendix A: Restoration Plates

GENERAL PROVISIONS

§ 51.01 FINDINGS, PURPOSE AND INTENT.

(A) To provide for health, safety and welfare of its citizens, and to ensure the integrity of its roads and streets and the appropriate use of the rights-of-way, the county strives to keep its right-of-way in a state of good repair and free from unnecessary encumbrances.

(B) (1) Accordingly, the county hereby enacts this new ordinance relating to right-of-way permits and administration. This chapter imposes regulation on the placement and maintenance of facilities and equipment currently within its right-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the right-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public right-of-way.

(2) Regulation of driveways and accesses to county roads is pursuant to the County Highway Department access policy, and is not dealt with in this chapter.

(C) (1) This chapter shall be interpreted consistently with 1997 Session Laws, Ch. 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81 and 238.086 (the "Act"), as they may be amended from time to time, and the other laws governing applicable rights of the county and users of the right-of-way. This chapter shall also be interpreted consistently with Minn. Rules parts 7819.0050 through 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended.

(2) This chapter shall not be interpreted to limit the regulatory and police powers of the county to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

(Ord. 06-01, passed 4-4-2006)

§ 51.02 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

(A) Pursuant to the authority granted to the county under state and federal statutory, administrative and common law, the county hereby elects pursuant M.S. § 237.163, subd. 2(b), as it may be amended from time to time, to manage right-of-way under its jurisdiction.

(B) **MANAGE THE RIGHT-OF-WAY** means the authority of the county to do any or all of the following:

- (1) Require registration;
- (2) Require construction performance bonds and insurance coverage;
- (3) Establish installation and construction standards;
- (4) Establish and define location and relocation requirements for equipment and facilities;
- (5) Establish coordination and timing requirements;
- (6) Require right-of-way users to submit henceforth required by the county project data reasonably necessary to allow the county to develop a right-of-way mapping system including GIS system information;

(7) Require right-of-way users to submit, upon request of the county, existing data on the location of user's facilities occupying the public right-of-way within the county. The data may be submitted in the form maintained by the user in a reasonable time after receipt of the request based on the amount of data requested;

(8) Establish right-of-way permitting requirements for excavation and obstruction;

(9) Establish removal requirements for abandoned equipment or facilities, if required in conjunction with other right-of-way repair, excavation or construction; and/or

(10) Impose reasonable penalties for unreasonable delays in construction.

(Ord. 06-01, passed 4-4-2006)

§ 51.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ABANDONED FACILITY.** A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

(B) **APPLICANT.** Any person requesting permission to install any utility or to excavate or obstruct a right-of-way.

(C) **COMMISSION.** The Minnesota Public Utilities Commission.

(D) **CONGESTED RIGHT-OF-WAY.** A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S. § 216D.04, subd. 3, as it may be amended from time to time, over a continuous length in excess of 500 feet.

(E) **CONSTRUCTION PERFORMANCE BOND.** Any of the following forms of security provided at permittee's option:

(1) Individual project bond;

(2) Cash deposit;

(3) Security of a form listed or approved under M.S. § 15.73, subd. 3, as it may be amended from time to time;

(4) Letter of credit, in form acceptable to the county;

(5) Self-insurance in form acceptable to the county; and

(6) Blanket bond for projects within the county or construction bond for a specified time and in a form acceptable to the county.

(F) **COUNTY.** The County of Wright, Minnesota. For purposes of §51.56 of this chapter, **COUNTY** means its elected and appointed officials, officers, employees and agents.

(G) **DEGRADATION.** A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(H) **DEGRADATION COST.** Subject to Minn. Rules part 7819.1100 means the cost to achieve a level of restoration as determined by the county at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. Rules parts 7819.9900 to 7819.9950, and included in the appendix to this chapter.

(I) **DEGRADATION FEE.** The estimated fee established at the time of permitting by the county to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation costs.

(J) **DELAY PENALTY.** The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching or restoration as established by permit.

(K) **DEPARTMENT.** The Wright County Highway Department.

(L) **DEPARTMENT INSPECTOR.** Any person authorized by the County Engineer to carry out inspections related to the provisions of this chapter.

(M) **DIRECTOR.** The County Engineer or her or his designee.

(N) **EMERGENCY.** A condition that:

(1) Poses danger to life or health, or of a significant loss of property; or

(2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

(O) **EQUIPMENT.** Any tangible asset used to install, repair or maintain facilities in any right-of-way.

(P) **EXCAVATE.** To dig into or in any way remove or physically disturb or penetrate any part of a public right-of-way.

(Q) **FACILITY or FACILITIES.** Any tangible asset in the right-of-way required to provide utility service.

(R) **FIVE-YEAR PROJECT PLAN.** Shows projects adopted by the county for construction within the next five years.

(S) **HIGH DENSITY CORRIDOR.** A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

(T) **HOLE.** An excavation in the right-of-way.

(U) **JOINT INSTALLATION.** Two or more registrants that install facilities in the same trench, conduit and the like or on the same obstruction in the right-of-way at the same time and same place.

(V) **LOCAL REPRESENTATIVE.** A local person or persons, or designee of such person or persons, authorized by a registrant to accept legal notice or service and to accept communications and to make decisions for that registrant regarding all matters within the scope of this chapter.

(W) **MANAGEMENT COSTS.** The actual costs the county incurs in managing its public rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment and facilities during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. **MANAGEMENT COSTS** do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Ch. 123, M.S. §§ 237.162 or 237.163, as they may be amended from time to time, or any ordinance enacted under those sections, or the county fees and costs related to appeals taken pursuant to § 51.58 of this chapter.

(X) **OBSTRUCT.** To place any tangible object in a public right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

(Y) **PATCH or PATCHING.**

(1) A method of pavement replacement that is temporary in nature. **APATCH** consists of:

(a) The compaction of the subbase and aggregate base; and

(b) The replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.

(2) A **PATCH** is considered full restoration only when the pavement is included in a project programmed by the county, or as approved by the Director.

(Z) **PAVEMENT.** Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate or gravel.

(AA) **PERMIT.** The meaning given "right-of-way permit" in M.S. § 237.162, as it may be amended from time to time.

(BB) **PERMITTEE.** Any person to whom a permit to install a utility or to excavate or obstruct a right-of-way has been granted by the county under this chapter.

(CC) **PERSON.** An individual or entity subject to the laws and rules of the state, however organized, whether public or private, whether domestic or foreign, whether for profit or non-profit and whether natural, corporate or political.

(DD) **POTHOLING.** A term used for the method of exposing an existing underground facility, by the means of hand digging, for the purpose of determining the facilities exact location.

(EE) **PROBATION.** The status of a person that has not complied with the conditions of this chapter.

(FF) **PROBATIONARY PERIOD.** One year from the date that a person has been notified in writing that they have been put on probation.

(GG) **PUBLIC RIGHT-OF-WAY.** The area on, below or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the county has an interest, including other dedicated rights of way for travel purposes and utility easements of the county. A **PUBLIC RIGHT-OF-WAY** does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service. The lands described by an easement, deed, dedication, title, law or occupation of a road, highway, street, cartway, bicycle lane or sidewalk are included as right-of-way.

(HH) **REGISTRANT.** Any person who:

(1) Has or seeks to have its equipment or facilities located in any right-of-way; or

(2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

(II) **RESTORATION COST.** The amount of money paid to the county by a permittee to achieve the level of restoration according to plates 1 to 13 of the state's Public Utilities Commission rules.

(JJ) **RESTORE or RESTORATION.** The process by which an excavated public right-of-way and surrounding area including pavement foundation is returned to the same condition (and life expectancy) that existed before excavation.

(KK) **RIGHT-OF-WAY PERMIT.** A permit issued for installation of utilities, excavation or obstruction of the right-of-way as

required by this chapter.

(LL) **RIGHT-OF-WAY USER.**

(1) A telecommunications right-of-way user as defined by M.S. § 237.162, subd. 4, as it may be amended from time to time;

(2) A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise or ordinance to use the public right-of-way; or

(3) Hazardous liquid or natural gas pipeline facilities.

(MM) **RURAL ROADWAY.** Any roadway not meeting the definition of an urban section.

(NN) **SERVICE or UTILITY SERVICE.** Includes:

(1) Those services provided by a public utility as defined in M.S. § 216B.02, subds. 4 and 6, as they may be amended from time to time;

(2) Services of a telecommunications right-of-way user, including transporting of voice or data information;

(3) Services of a cable communications system as defined in M.S. Ch. 238, as it may be amended from time to time;

(4) Natural gas or electric energy or telecommunications services provided by the city;

(5) Services provided by a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time; and

(6) Water, sewer, steam, cooling or heating services.

(OO) **SUPPLEMENTARY APPLICATION.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

(PP) **TELECOMMUNICATION RIGHTS-OF-WAY USER.** A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in M.S. § 216B.02, as it may be amended from time to time, a municipality, a municipal gas or power agency organized under M.S. Ch. 453 and 453A, as they may be amended from time to time, or a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time, are not **TELECOMMUNICATIONS RIGHT-OF-WAY USERS.**

(QQ) **TEMPORARY SURFACE.** The compaction of subbase and aggregate base and replacement, in kind, of existing pavement only to the edges of the excavation. It is temporary in nature, except when the replacement is of pavement included in the county's two-year project plan, in which case it is considered full restoration.

(RR) **TRENCH.** An excavation in the right-of-way.

(SS) **UNUSABLE OR UNUSED EQUIPMENT AND FACILITIES.** Equipment and facilities in the right-of-way which have remained unused for one year or for facilities that are not registered or located by Gopher One Call; or for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the equipment or facilities.

(TT) **URBAN SECTION.** Any roadway that has curbing.

(Ord. 06-01, passed 4-4-2006)

§ 51.04 ADMINISTRATION.

The Director is the principal county official responsible for the administration of the rights-of-way, right-of-way permits and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

(Ord. 06-01, passed 4-4-2006)

§ 51.05 UTILITY COORDINATION COMMITTEE

(A) The county may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the county in obtaining information and by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The Director may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the county.

(B) The County Board shall make any appointments to such a committee by resolution.

(Ord. 06-01, passed 4-4-2006)

§ 51.06 EFFECTIVE DATE.

This chapter was in full force and effect on 4-5-2006.

REGISTRATION AND PERMITS

§ 51.20 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

(A) *Registration.* Each person who occupies, uses or seeks to occupy or use, the right-of-way or place any equipment or facilities in the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the county. Registration will consist of agreeing to abide by this chapter, providing application information and paying a registration fee. Registration fees shall be set by resolution of the County Board and may be amended by the Board at a public meeting.

(B) *Registration prior to work.* No person may construct, install, repair, remove, relocate or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the county.

(C) *Exceptions.*

(1) Nothing herein shall be construed to repeal or amend the rights of persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb, in an urban section of roadway. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, plantings must not violate applicable clear zone requirements, nor obstruct visibility on the roadway, and the county may remove such plantings, if necessary for maintenance, safety or construction purposes, with no compensation due the property owner. No plantings of any kind shall be allowed in the right-of-way on rural roadways.

(2) Private underground sprinkler and irrigation systems shall be allowed in the right-of-way by permit only, however owner and installers shall be exempt from registration. No compensation shall be made to owner if any sprinkler or irrigation system is required to be removed or if it is damaged by any county or municipal activity or by any permitted right-of-way activity.

(3) Persons installing turn and or bypass lanes shall be exempt from registration, however, an access permit is required.

(4) Resident-owned sewer and water service lines to a city main and resident owned drain tile lines shall not be required to register, unless requested by the county, but shall be required to obtain permits for excavation and obstruction.

(5) Nothing herein relieves a person from complying with the provisions of the M.S. Ch. 216D, the Gopher State One Call Law, as it may be amended from time to time.

(Ord. 06-01, passed 4-4-2006) Penalty, see §51.99

§ 51.21 REGISTRATION INFORMATION.

(A) *Information required.* The information provided to the Director at the time of registration shall include, and be on the form provided by the county, but not be limited to:

(1) Each registrant's name, Gopher One Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

1. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees; and

2. Placement and use of facilities in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property.

(c) Naming the county as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the county and the public and to carry out the purposes and policies of this chapter.

(4) The county may require a copy of the actual insurance policies;

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. Ch. 302A, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

(6) A copy of the person's order granting a certificate of authority from the state's Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said Commission or other state or federal agency.

(B) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the Director information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Ord. 06-01, passed 4-4-2006)

§ 51.22 REPORTING OBLIGATIONS.

(A) *Operations.*

(1) Each registrant that provides utility service shall, at the time of registration and by December 31 of each year, file a construction and major maintenance plan for underground facilities with the Director. Such plan shall be submitted using a format designated by the Director and shall contain the information determined by the Director to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. The county shall maintain in the file a copy of the county's construction plan for construction projects. The utility facility plans shall be kept up-to-date by the registrant. The plans shall be on file and available for public inspection.

(2) The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project");

(b) How the registrant will accommodate the county plan; and

(c) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

(3) It is the registrant's responsibility to keep informed on available plans.

(4) The term "project" in this section shall include both next-year projects and five-year projects, but does not include individual service line hookups and minor maintenance unless they are part of an area wide program.

(B) *Additional next-year projects.* Notwithstanding the foregoing, the Director will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the county if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Ord. 06-01, passed 4-4-2006)

§ 51.23 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct, or excavate any right-of-way without first registering and having obtained the appropriate right-of-way permit from the county to do so.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(2) A new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minn. Rule part 7819.1000, subd. 3, notwithstanding division (B) above, the county shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching or restoration. The delay penalty shall be established from time to time by County Board resolution. The county may also require that the permittee reimburse the county for any damages or additional costs charged by the county's construction contractor as a result of the delay.

(D) *Permit display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the county.

(Ord. 06-01, passed 4-4-2006)

§ 51.24 PERMIT APPLICATIONS.

Application for a permit is made to the Director. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of, the following provisions:

(A) Registration with the county pursuant to this chapter;

(B) Submission of a completed permit application on the form provided by the county, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities;

(C) Payment of money due the county for:

- (1) Permit fees, estimated restoration costs and other management costs;
- (2) Prior obstructions or excavations;
- (3) Any undisputed loss, damage or expense suffered by the county because of applicant's prior excavations or obstructions of the right-of-way or any emergency actions taken by the county; and
- (4) Franchise fees or other charges, if applicable.

(D) Payment of disputed amounts due the county by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

(E) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation or obstruction permit to install additional facilities and the county deems the existing construction performance bond inadequate under applicable standards.

(Ord. 06-01, passed 4-4-2006)

§ 51.25 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the county shall issue a permit.

(B) *Conditions.* The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or, when necessary, to protect the right-of-way and its current and future use.

(C) *Installation requirements.* Basic installation requirements shall include, but not be limited to, those installation requirements found in the county's highway utility installation policy, the terms of which are incorporated into this chapter by reference.

(Ord. 06-01, passed 4-4-2006)

§ 51.26 PERMIT FEES.

(A) *Right-of-way permit fee.* The county shall establish a right-of-way permit fee schedule specifying fees that are adequate to recover the associated costs that include, but are not limited to, the following. Permit fees shall be established by resolution of the County Board and may be amended at any public meeting.

- (1) County management costs;
- (2) Degradation costs, if applicable;
- (3) Mapping costs; and
- (4) Obstruction costs.

(B) *Payment of permit fees.* No right-of-way permit shall be issued without payment of any and all applicable permit fees unless the county allows applicants to pay such fees within 30 days of billing.

(C) *Non-refundable.*

(1) Permit fees that were paid for a permit that the Director has revoked for a breach as stated in § 15465.30 of this chapter are not refundable.

(2) Permit fees paid for work that is subsequently cancelled are not refundable.

(D) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from, and in addition to, the franchise fees imposed on a right-of-way user in the franchise.

(Ord. 06-01, passed 4-4-2006)

§ 51.27 DENIAL OF PERMIT.

The county may deny a permit for failure to meet the requirements and conditions of this chapter or if the county determines that the denial is necessary to protect the public health, safety and welfare or when necessary to protect the right-of-way and its current and future use. The county may deny a permit if the permittee has failed to comply with previous permit conditions. The county may withhold issuance of a permit until conditions of previous permit are complied with.

(Ord. 06-01, passed 4-4-2006)

§ 51.28 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the county becomes aware of an emergency regarding a registrant's facilities, the county will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency.

(3) In any event, the county may take whatever action it deems necessary to correct the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, pay four times the normal fee for said permit, pay double all the other fees required by this chapter, and deposit with the county the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

(Ord. 06-01, passed 4-4-2006)

§ 51.29 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the county of the accurate information as soon as this information is known.

(Ord. 06-01, passed 4-4-2006)

§ 51.30 REVOCATION OF PERMITS.

(A) *Substantial breach.* The county reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit including a threat to the safety of workers, or the right-of-way user or the utility users. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the county or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained, or unless the failure to complete work is due to reasons beyond the permittee's control, or failure to relocate existing facilities as specified in § 51.52 of this chapter;
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 51.50 of this chapter;
- (6) Failure of the utility to pay any required costs, fees or charges billed by the county; or
- (7) Failure to provide traffic control that conforms to the provisions of the *Minnesota Manual on Uniform Traffic-Control Devices*, including the *Temporary Traffic-Control Zones Field Manual*.

(B) *Written notice of breach.*

(1) If the county determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the county shall make a written demand upon the permittee to remedy such violation.

(2) The demand shall state that continued violations may be cause for revocation of the permit.

(3) A substantial breach, as stated above, will allow the county, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, permittee shall provide the county with a plan, acceptable to the county, that will cure the breach. The permittee's failure to so contact the county, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, the permittee's failure to so contact the county, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically revoke the permit and may include placing the permittee on probation for one full year.

(D) *Cause for probation.* From time to time, the county may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

(E) *Automatic revocation.* If a permittee, while on probation, commits a breach as outlined above, the permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

(F) *Reimbursement of county costs.* If a permit is revoked, the permittee shall also reimburse the county for the county's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

(G) *Revoked permit.* If the county revokes a utility's permit for breach of this chapter, the utility will not be allowed to install any utility or to obstruct or excavate within the county right-of-way until the breach situation is corrected to the satisfaction of the Director and the permit is reissued.

REGULATIONS; ADMINISTRATION

§ 51.45 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under § 51.47 of this chapter.

(B) *Temporary surfacing, patch and restoration.* The permittee shall patch its own work.

(1) *County restoration.* If the county restores any part of the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, the county restores only the surface of the right-of-way and during the 24 months following such restoration, the pavement settles, the permittee shall pay to the county, within 30 days of billing, all costs related to restoring the right-of-way or associated with having to correct the defective work, which may include removal and replacement of any or all work done by the permittee. These costs shall include administrative, overhead mobilization, material, labor and equipment.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall, at the time of application for a permit, post a construction performance bond in an amount determined by the Director to be sufficient to cover the cost of restoration. If, within 24 months after completion of the restoration of the right-of-way, the Director determines that the right-of-way has been properly restored, the surety on the construction performance bond shall be released. The County Board shall establish, by resolution, a schedule of construction performance bond amounts for use under this chapter.

(3) *Degradation fee and patching in lieu of restoration to PUC standards.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee at the county's discretion. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards.* The permittee shall perform temporary surfacing, patching and restoration including backfill, compaction and landscaping according to the standards and with the materials specified by the Director. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The Director in exercising this authority shall comply with PUC standards for right-of-way restoration (see PUC Rules 7819.990 to 7819.9950) and require conformance to MN/DOT standard specifications and local government specifications and drawing and shall further be guided by the following considerations:

- (1) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way;
- (2) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;
- (3) The pre-excavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation;
- (4) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and
- (5) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

(D) *Guarantees.*

(1) The permittee guarantees its work and shall maintain it for 24 months following its completion. During this 24-month period, it shall, upon notification from the Director, correct all restoration work to the extent necessary, using the method required by the Director. Said work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 51.48 of this chapter.

(2) The permittee shall correct defects in patching, or restoration performed by permittee or its agents. The permittee, upon notification from the county, shall correct all restoration work to the extent necessary, using the method required by the county. Said work shall be completed within five calendar days of the receipt of the notice from the county, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 51.48 of this chapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director, at his or her option, may do such work. In that event the permittee shall pay to the county, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the county may exercise its rights under the construction performance bond.

§ 51.46 JOINT INSTALLATIONS.

(A) *Joint installation.* Registrants may jointly install facilities for excavation or obstruction of the right-of-way at the same place and time.

(B) *With county construction projects.* Registrants who join in a scheduled utility installation or obstruction or excavation coordinated with a county construction project by the Director, whether or not it is a joint installation by two or more registrants or a single installation, are not required to pay the permit fee, however, a permit is still required.

(Ord. 06-01, passed 4-4-2006)

§ 51.47 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:

- (1) Make application for a permit extension and pay any additional fees required thereby; and
- (2) Be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for an extension of time and receive the approval of the county, in writing, before proceeding with further work. This supplementary application must be done before the permit end date. Permit applications for non-emergency work shall be submitted a minimum of three weeks prior to the planned start of work. Notwithstanding, if a person is in good standing with the county, and a situation arises that non-emergency work needs to be done sooner than the person can make proper application, the county may grant verbal approval to begin work. In such case, the required permit application shall be submitted within two business days of the verbal approval.

(Ord. 06-01, passed 4-4-2006)

§ 51.48 OTHER OBLIGATIONS.

(A) *Compliance with other laws.* The applicant must notify and obtain a permit from any township or city through which it passes if said township or city so requires. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the county or other applicable rule, law or regulation. The permittee shall comply with other local codes and with road load restrictions. A permittee shall comply with all requirements of local, state and federal laws, including M.S. §§ 216D.01 through 216D.09 ("Gopher One Call Excavation Notice System"), as they may be amended from time to time. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *Prohibited work.* Except in an emergency, and with the approval of the county, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work. No open cutting of the bituminous roadway shall be allowed without prior approval from the county. If such approval is granted, it shall not occur between November 15 and April 1 of any given year.

(C) *Interference with right-of-way.*

(1) A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters, culverts, ditches tiles or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with county or applicable township or city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(2) Traffic control shall conform to the *Minnesota Manual on Uniform Traffic-Control Devices*, including the *Temporary Traffic-Control Zones Field Manual* and any directions of the County Engineer.

(D) *Verify location of facility.*

(1) At the written request of the county, a person shall determine the exact location of their facility, both vertically and horizontally, by means of "potholing" or some other acceptable method, to expose the facility. Reasons to verify shall include, but are not limited to, the following:

(a) To verify that the facility was installed at the proper depth and horizontal location per the permit; and

(b) To verify actual depth and location for:

1. A present or future county use of the right-of-way;
 2. A public improvement undertaken by the county or by a city or town under a cooperative agreement with the county;
 3. A public improvement undertaken by a private landowner, as authorized or required by the county;
 4. When the public health, safety and welfare require it; or
 5. When necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.
- (2) All costs to expose the facility shall be done at the permittee's expense or the county may upon written notice to the

permittee, expose the facility, at the permittee's expense.

(3) Verification of facilities, both vertical and horizontal, shall be completed within seven calendar days of written notification.

(Ord. 06-01, passed 4-4-2006)

§ 51.49 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules parts 7819.1100 and 7819.5000, the restoration plates included in the appendix to this chapter, the County Highway Utility Installation Policy, and shall conform to MN/DOT standard specifications and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

(Ord. 06-01, passed 4-4-2006)

§ 51.50 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rules part 7819.1300.

(B) *Site inspection.* The permittee shall make the work-site available to the county and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of county.*

(1) At the time of inspection the Director may order the immediate cessation and correction of any work which poses a serious threat to the life, health, safety or well being of the public.

(2) The Director may issue an order to the permittee to correct any work which does not conform to the terms of the permit or other applicable standards, rules, laws, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to § 51.30 of this chapter.

(3) The cost of any action required by the county shall be paid by the permittee.

(Ord. 06-01, passed 4-4-2006)

§ 51.51 MAPPING DATA.

(A) *Information required.*

(1) Each registrant and permittee shall provide mapping information required by the county in accordance with Minn. Rules parts 7819.4000 and 7819.4100.

(2) Therefore, in managing the use of its public rights-of-way, the county may establish, develop, and implement a right-of-way mapping system as follows. The purpose of a mapping system is to:

(a) Allow flexibility in its use by the county as an effective management tool;

(b) Enhance public safety and user facility safety;

(c) Provide for long-term cost savings;

(d) Improve public right-of-way design quality; and

(e) Allow for better information collection and cooperative usage among local government units, telecommunications companies and other users of the public right-of-way.

(B) *Application required.* When the county requires a permit for an excavation or an obstruction of its public right-of-way, a person wishing to undertake a project within the public right-of-way shall submit a right-of-way permit application, which may require the filing of mapping information pursuant to division (C) below.

(C) *Information.* The county may require as part of its permit application the filing of all the following information:

(1) Location and approximate depth of applicant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:

(a) Offsets from property lines, distances from the centerline of the public right-of-way and curb lines as determined by the local government unit;

(b) Coordinates derived from the coordinate system being used by the local government unit; or

(c) Any other system agreed upon by the right-of-way user and local government unit.

(2) The type and size of the utility facility;

(3) A description showing above ground appurtenances;

(4) A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and

(5) Any facilities to be abandoned, if applicable, in conformance with M.S. § 216D.04, subd. 3, as it may be amended from time to time.

(D) *Changes and corrections.* The application must provide that the applicant agrees to submit “as built” drawings, reflecting any changes and variations from the information provided under divisions (C)(1) through (C)(5) above.

(E) *Additional construction information.* In addition, the right-of-way user shall submit to the county at the time the project is completed a completion certificate according to Minn. Rules part 7819.1300.

(F) *Manner of conveying permit data.* A right-of-way user is not required to provide or convey mapping information or data in a format or manner that is different from what is currently utilized and maintained by that user. A permit application fee may include the cost to convert the data furnished by the right-of-way user to a format currently in use by the county. These data conversion costs, unlike other costs that make up permit fees, may be included in the permit fee after the permit application process.

(G) *Data on existing facilities.* At the request of the county, a right-of-way user shall provide existing data on its existing facilities within the public right-of-way in the form maintained by the user at the time the request was made, if available.

(Ord. 06-01, passed 4-4-2006)

§ 51.52 LOCATION AND RELOCATION OF FACILITIES.

(A) *Placement, location and relocation.*

(1) Placement, location and relocation of facilities must comply with the Act, with other applicable law, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities and counties. By submitting a request for a permit the person recognizes they must conform to the existing ordinances and codes of other units of government related to underground placement regardless of how the application is written or permit granted.

(2) Utility poles and guy anchors, and any other equipment, shall conform to the National Cooperative Highway Research Program (NCHRP) Report 350 standards for crash-worthiness or must be located outside of applicable clear zones. Any installation that does not conform to the state’s Department of Transportation clear zone standards must be approved by the Director and the facility owner shall indemnify and hold harmless the county. All above ground structures shall be placed at or as near as possible to the right-of-way line.

(B) *Corridors.* The county may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, as a best management practice for each type of facility that is, or, pursuant to current technology, the county expects will someday be, located within the right-of-way. All right-of-way or other permits issued by the county involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. A typical cross section of the location for utilities may be on file at the Director’s office. This section is not intended to establish “high density corridors”. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the county shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the county for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(C) *Nuisance.* Any utility that is found to have been installed after the passage of this chapter, and without a permit, in a county right-of-way shall be deemed to be a nuisance. The county may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition and requiring payment to the county for the costs involved.

(D) *Limitation of space.*

(1) To protect health, safety and welfare or when necessary to protect the right-of-way and its current use, the county shall have the power to use best management practices to prohibit or limit the placement and location of new or additional facilities within the right-of-way.

(2) In making such decisions, the county shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public’s need for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way and future county plans for public improvements and development projects which have been determined to be in the public interest.

(E) *Relocation of facilities.* A registrant must, promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the Director for good cause requests such removal and relocation, and shall restore the right-of-way consistent with PUC standards, local regulations and MN/DOT standard specifications. The Director may make such request to prevent interference by the company’s equipment or facilities with:

(1) A present or future county use of the right-of-way;

(2) A public improvement undertaken by the county or by a city or town under a cooperative agreement with the county;

- (3) A public improvement undertaken by a private landowner, as authorized or required by the county;
 - (4) When the public health, safety and welfare require it; or
 - (5) When necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.
- (F) *Relocation notification procedure.*

(1) The Director shall notify the utility owner at least six months in advance of the need to relocate existing facilities so the owner can plan the relocation. The Director shall provide a second notification to the owner one month before the owner needs to begin the relocation. The utility owner shall begin relocation of the facilities within one week of the second notification. All utilities shall be relocated within one month. The Director may allow a different schedule if it does not interfere with the county's project. The utility owner shall diligently work to relocate the facilities within the above schedule.

(2) In the event that emergency work by the county or by a municipality in the county right-of-way requires relocation of a utility, the notification requirements above are waived. The county and utility shall coordinate efforts to minimize delay.

(G) *Delay to county project.*

(1) The Director shall notify the utility owner if the owner's progress will not meet the relocation schedule. If the owner does not take action to ensure the relocation will be completed in accordance with the above schedule and the Director feels this delay will have an adverse impact to a county project, then the Director may hire a competent contractor to perform the relocation. In that event, the county may charge the utility owner all costs incurred to relocate the facility.

(2) The county may charge the utility owner for all costs incurred and requested by a contractor working for the county who is delayed because the relocation is not completed in the scheduled time frame and for all costs incurred by the county due to the delay.

(3) Notwithstanding the foregoing, according to the PUC rules, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person.

(4) However, this does not exempt the utility company from paying for the value of any taking of said property by occupation without compensation.

(Ord. 06-01, passed 4-4-2006)

§ 51.53 PRE-EXCAVATION FACILITIES LOCATION.

(A) In addition to complying with the requirements of M.S. §§ 216D.01 through 216D.09 ("One Call Excavation Notice System"), as they may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal placement of all said facilities. Vertical locations shall be marked to the degree of accuracy that they are known. Any registrant whose facilities are in the area of work shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation to protect the safety of workers and right-of-way users and other utility users. If the utility is not at the approved depth or location, it shall be exposed at the permittee's expense or by the county upon written notice to the permittee.

(B) The county may, upon said notice, locate said utility at the permittee's expense.

(Ord. 06-01, passed 4-4-2006)

§ 51.54 DAMAGE TO OTHER FACILITIES.

When the county does work in the right-of-way and finds it necessary to maintain, support or move a registrant's facilities to protect it, the Director shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way that it or its facilities damages. When the permittee does damage to county facilities in the right-of-way, such as, but not limited to, culverts, road surfaces, traffic-control devices, curbs and gutters, or tile lines, they shall correct the damage immediately. If they do not, the county may make such repairs as necessary and charge all of the expenses of the repair to the permittee. The permittee shall pay for said repairs within 30 days of billing. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the county's response to an emergency occasioned by that registrant's facilities.

(Ord. 06-01, passed 4-4-2006)

§ 51.55 RIGHT-OF-WAY VACATION.

If the county vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3100, subd. 2, and Minn. Rules part 7819.3200 and other applicable laws.

(Ord. 06-01, passed 4-4-2006)

§ 51.56 INDEMNIFICATION AND LIABILITY.

(A) By registering with the county, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the county in accordance with the provisions of Minn. Rules part 7819.1250.

(B) All permits are granted subject to the ownership rights the county may have in the property involved and to the extent that state, federal local laws, rules and regulations allow and said permit is subject to all such laws and rules.

(Ord. 06-01, passed 4-4-2006)

§ 51.57 ABANDONED OR UNUSABLE FACILITIES.

(A) *Discontinued operations.* A registrant who has determined to discontinue all or a portion of its operations in the county must provide information satisfactory to the county that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

(B) *Removal.* Any registrant who has abandoned or unusable facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless the county waives this requirement.

(Ord. 06-01, passed 4-4-2006)

§ 51.58 APPEALS.

A right-of-way user that: has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation or fee imposition reviewed, upon written request, by the County Board. The County Board shall act on a timely written request on a day agreed to by both parties. A decision by the County Board affirming the denial, revocation or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 06-01, passed 4-4-2006)

§ 51.59 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's or registrant's rights are subject to the regulatory and police powers of the county to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

(Ord. 06-01, passed 4-4-2006)

§ 51.99 PENALTY.

(A) The county may assess a civil penalty for violation of this chapter. Penalties for delay in patching or restoration may range from a minimum of \$50 per day to a maximum of \$500 per day. Penalties for performing work in the right-of-way without a permit or for failure to comply with a permit shall be based on the facts of each violation. Factors to be considered include, but are not limited to, costs incurred by the county to correct the violation and costs avoided by the person committing the violation.

(B) Any person who violates any of the provisions of this chapter, or who fails, neglects or refuses to comply with the provisions of this chapter, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense.

(C) In the event of a violation of this chapter, the 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 permittee or other responsible person either in addition to or separate from other enforcement actions.

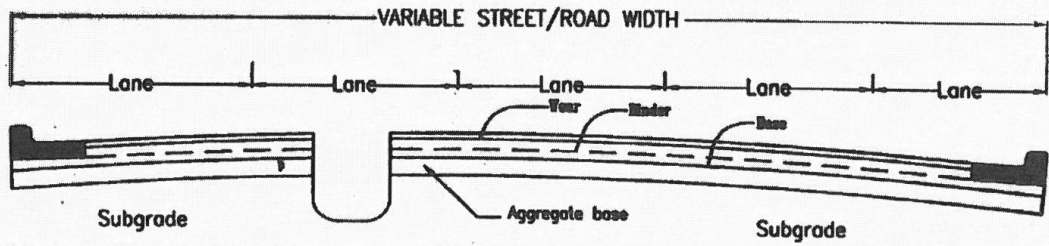
(Ord. 06-01, passed 4-4-2006)

APPENDIX A: RESTORATION PLATES

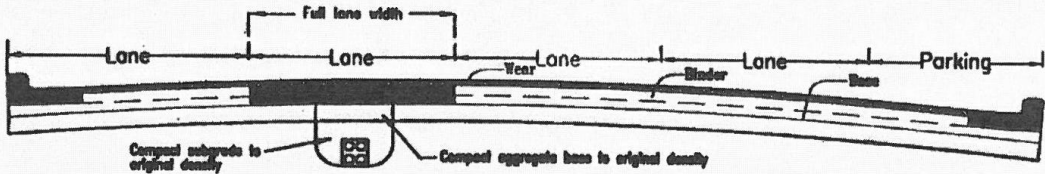
Trench Restoration
Typical Pavement 0 to 5 Years Old

Date: 03-06

PLATE 1
No Scale



Note: Lane widths and number of lanes are variable



Note 1: Bituminous Pavement

- Full lane replacement of base and binder to the nearest construction joint or transverse crack
- Full street width mill & overlay of wearing course

Note 2: Concrete Pavement

- Full panel replacement for concrete pavement

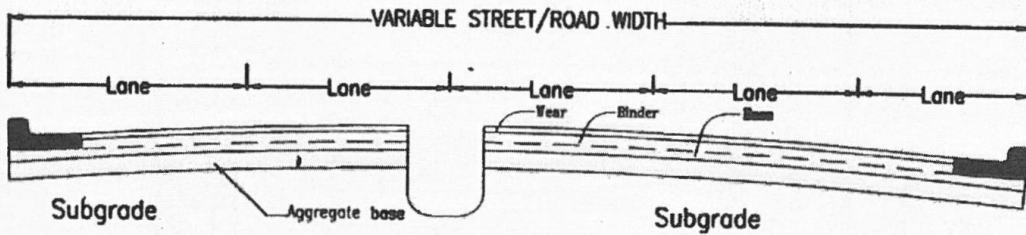
Note 3: All Other Types of Surfaces and Pavements

- Replacement with in-kind materials

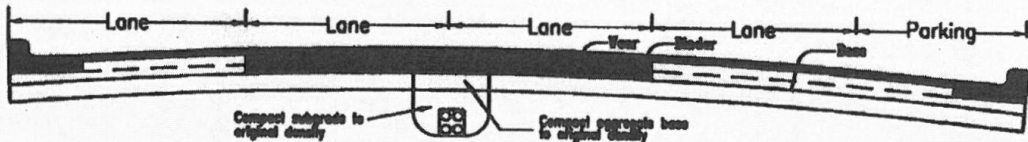
Trench Restoration
Typical Pavement 0 to 5 Years Old

Date: 03-06

PLATE 2
No Scale



Note: Lane widths and number of lanes are variable



Note 1: Bituminous Pavement

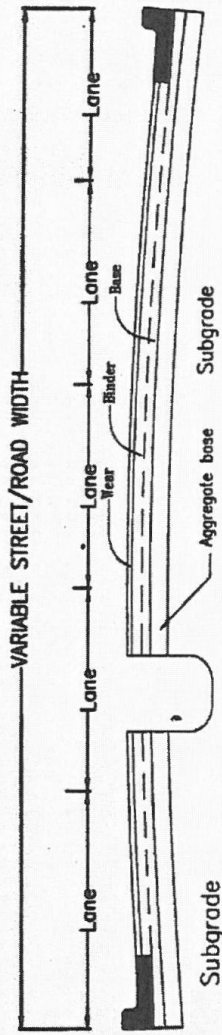
- Two lane replacement of base and binder to the nearest construction joint or transverse crack
- Full street width mill & overlay of wearing course

Note 2: Concrete Pavement

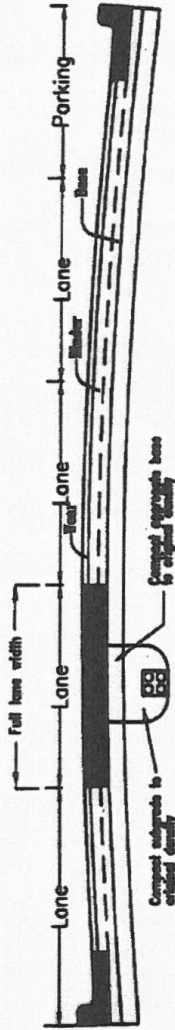
- Full panel replacement for concrete pavement

Note 3: All Other Types of Surfaces and Pavements

- Replacement with in-kind materials



Note: Lane widths and number of lanes are variable



Note 1: Bituminous Pavement

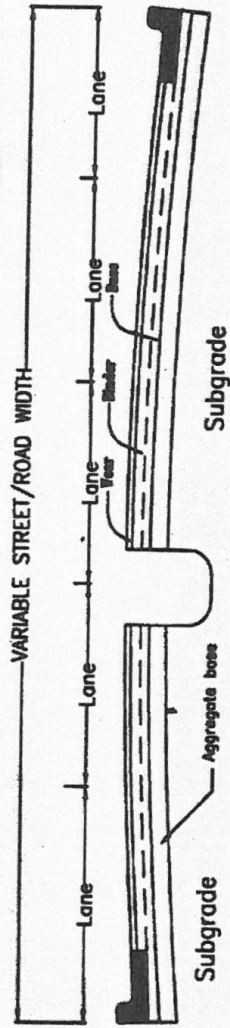
-Full lane replacement of base, binder, and wearing course to the nearest construction joint or transverse crack

Note 2: Concrete Pavement

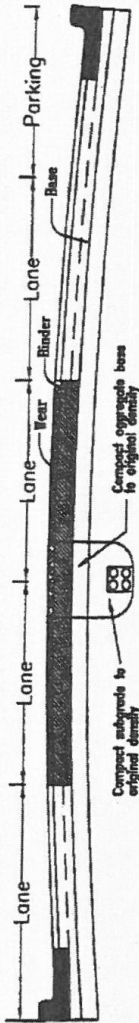
-Full panel replacement for concrete pavement

Note 3: All Other Types of Surfaces and Pavements

-Replacement with in-kind materials



Note: Lane widths and number of lanes are variable



Note 1: Bituminous Pavement

• Two lane replacement of base, binder and wearing course to the nearest construction joint or transverse crack

Note 2: Concrete Pavement

• Full panel replacement for concrete panel

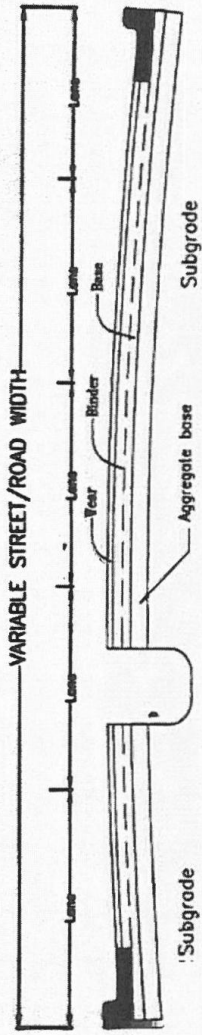
Note 3: All Other Types of Surfaces and Pavements

• Replacement with in-kind materials

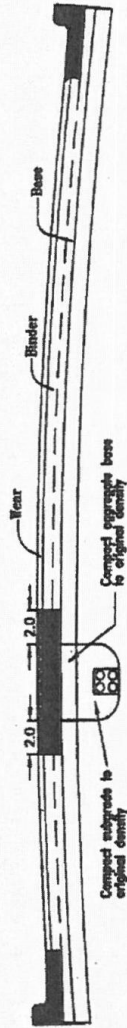
Trench Restoration Typical Pavement
5 Years Old to 5 Year Capital Improvement Plan

Date: 03-06

PLATE 4
No Scale



Note: Lane widths and number of lanes are variable



Note 1: Bituminous Pavement

- Replace base, binder and wearing course for trench width plus 2 ft. on either side of cut

Note 2: Concrete Pavement

- Replace trench width plus 2 ft. on either side of cut

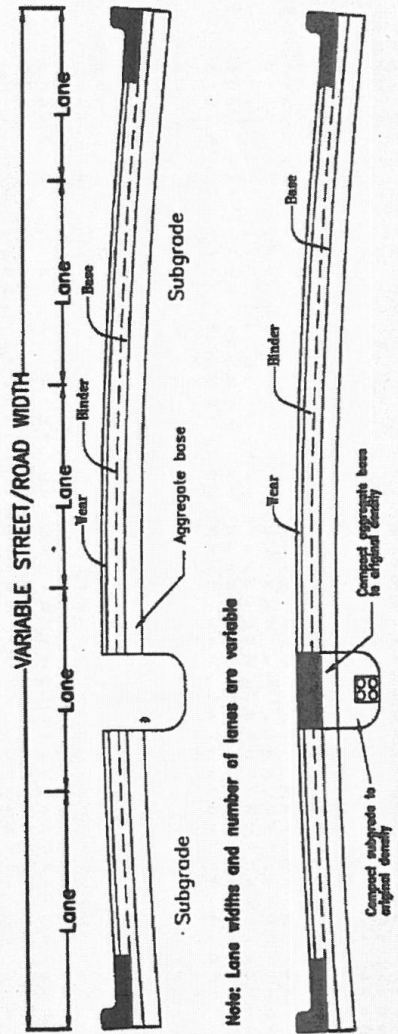
Note 3: All Other Types of Surfaces and Pavements

- Replace trench width plus 2 ft. on either side of cut

Utility Trench Restoration in 5 Year CIP
or Utility Trench Patch

Date: 03-06

PLATE 5
No Scale



Note: Lane widths and number of lanes are variable

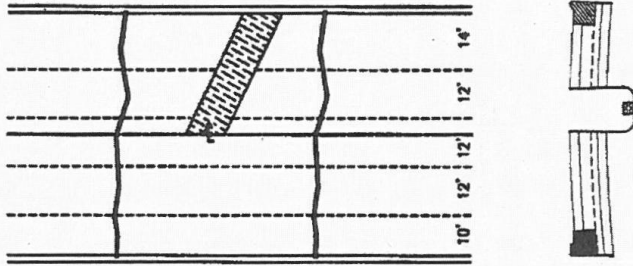
- Note 1: Bituminous Pavement**
- Replace base, binder and wearing course for trench width only
- Note 2: Concrete Pavement**
- Replace for trench width only
- Note 3: All Other Types Of Surfaces And Pavements**
- Replacement with in-kind materials for trench width only

Utility Trench Restoration Typical Pavement
in an Approved Project Location

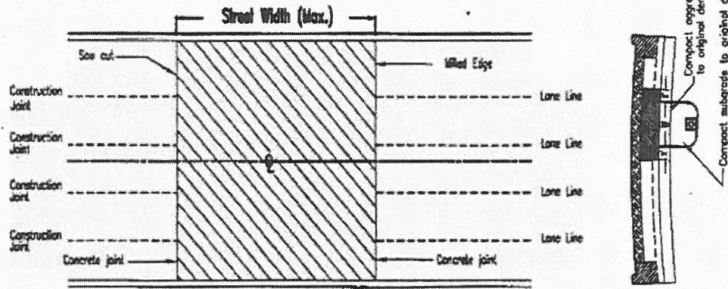
Date: 03-06

PLATE 6
No Scale

TYPICAL HOLE EXCAVATION



TYPICAL RESTORATION



Note 1: Bituminous Pavement

- Full lane replacement of base and binder to the nearest construction joint or transverse crack
- Full street width mill & overlay of wearing course

Note 2: Concrete Pavement

- Full panel replacement for concrete pavement

Note 3: All Other Types of Surfaces and Pavements

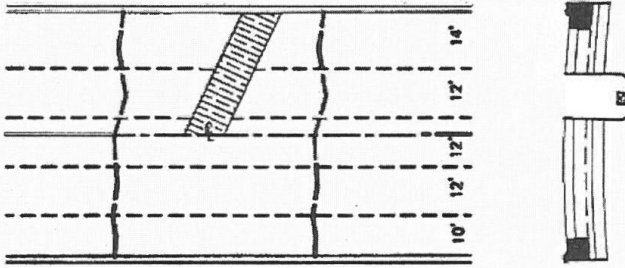
- Replacement with in-kind materials

Hole Restoration
Typical Pavement 0 to 5 Years Old

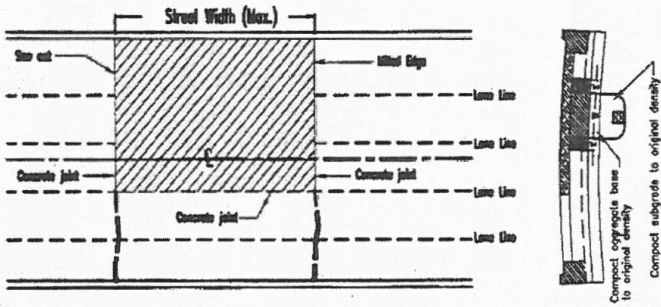
Date: 03-06

PLATE 7
No Scale

TYPICAL HOLE EXCAVATION



TYPICAL RESTORATION



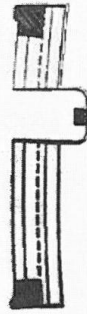
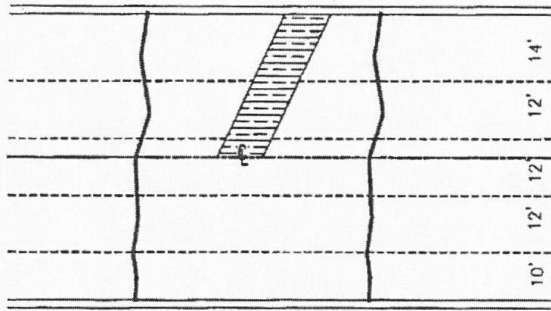
- Note 1: Bituminous Pavement
 -Full lane replacement of base, binder, and wearing course to the nearest construction joint or transverse crack
- Note 2: Concrete Pavement
 -Full panel replacement for concrete pavement
- Note 3: All Other Types of Surfaces and Pavements
 -Replacement with in-kind materials

Hole Restoration Typical Pavement
 5 Years Old to 5 Year CIP

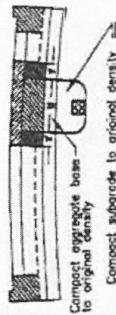
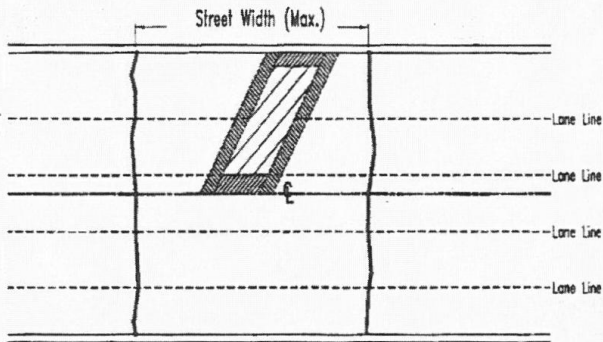
Date: 03-06

PLATE 8
 No Scale

TYPICAL HOLE EXCAVATION



TYPICAL RESTORATION



Note 1: Bituminous Pavement

- Replace base, binder and wearing course for width of hole plus 2 ft. on either side of cut

Note 2: Concrete Pavement

- Replace width of hole plus 2 ft. on either side of cut

Note 3: All Other Types of Surfaces and Pavements

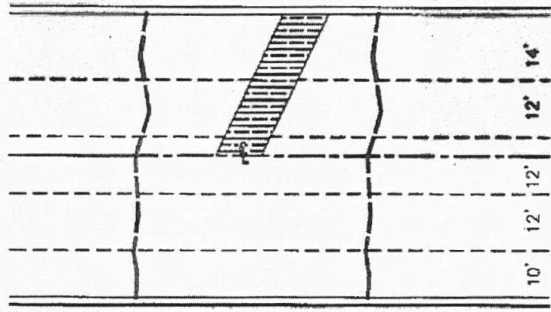
- Replace width of hole plus 2 ft. on either side of cut

Hole Restoration in 5 Year CIP
or Utility Hole Patch

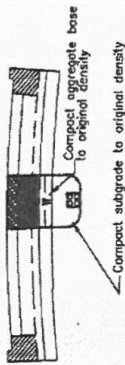
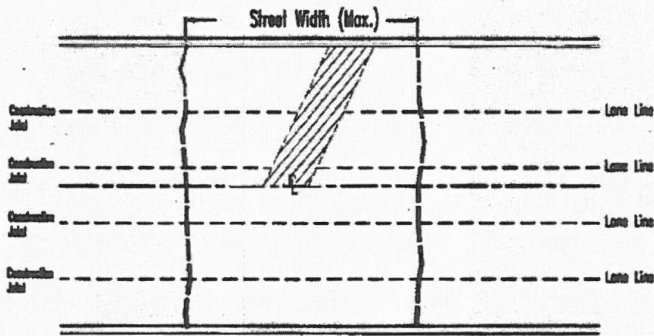
Date: 03-06

PLATE 9
No Scale

TYPICAL HOLE EXCAVATION



TYPICAL RESTORATION

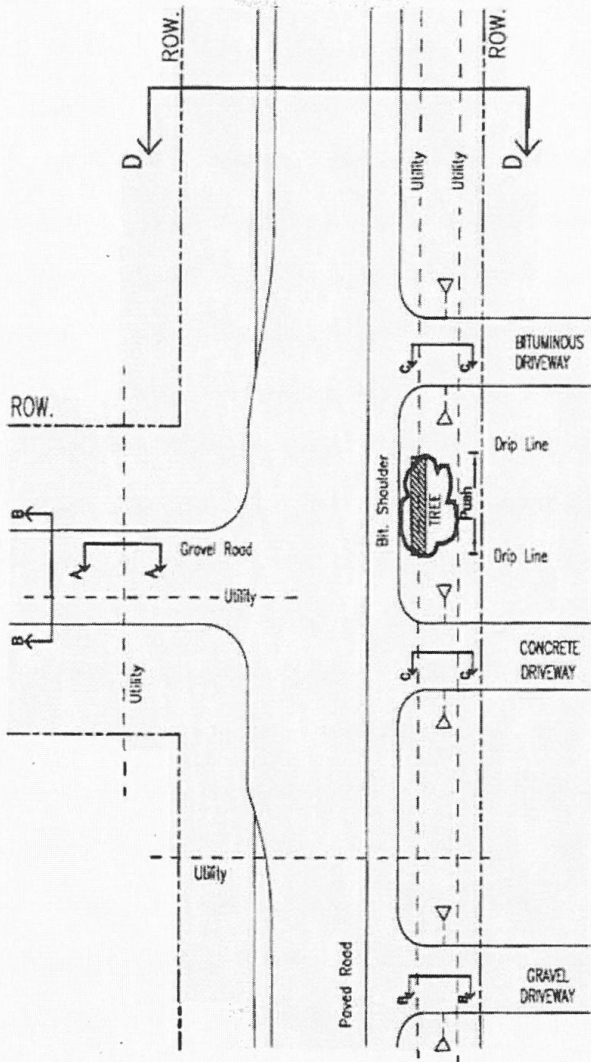


- Note 1: Bituminous Pavement
•Replace base, binder and wearing course for width of hole only
- Note 2: Concrete Pavement
•Replace width of hole only
- Note 3: All Other Types of Surfaces and Pavements
•Replacement with in-kind materials for width of hole only

Hole Restoration Typical Pavement in an Approved Project Location

Date: 03-06

PLATE 10
No Scale



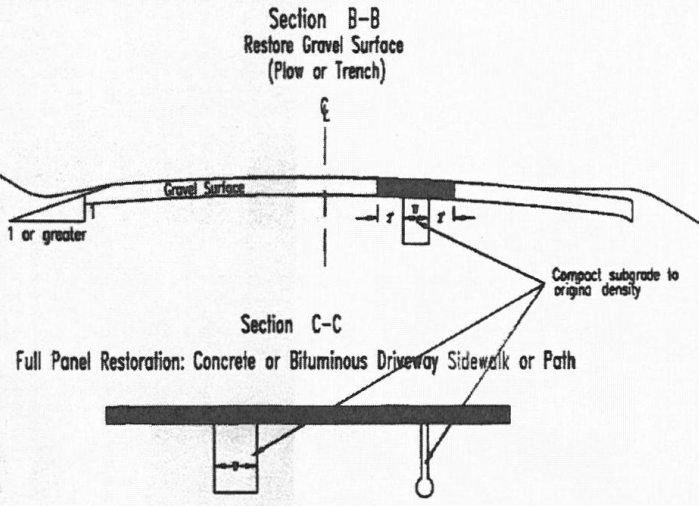
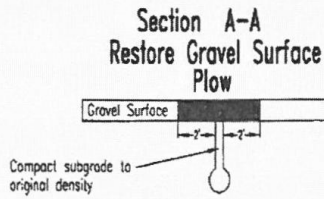
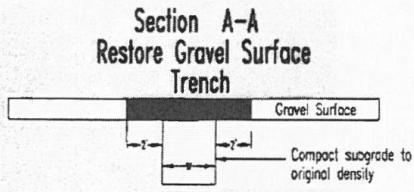
Note: All utility lines must be pushed under roads, shoulders and driveways unless other construction methods are approved by the Local Governmental Unit

Typical Road Plan

Date: 03-06

PLATE 11

No Scale

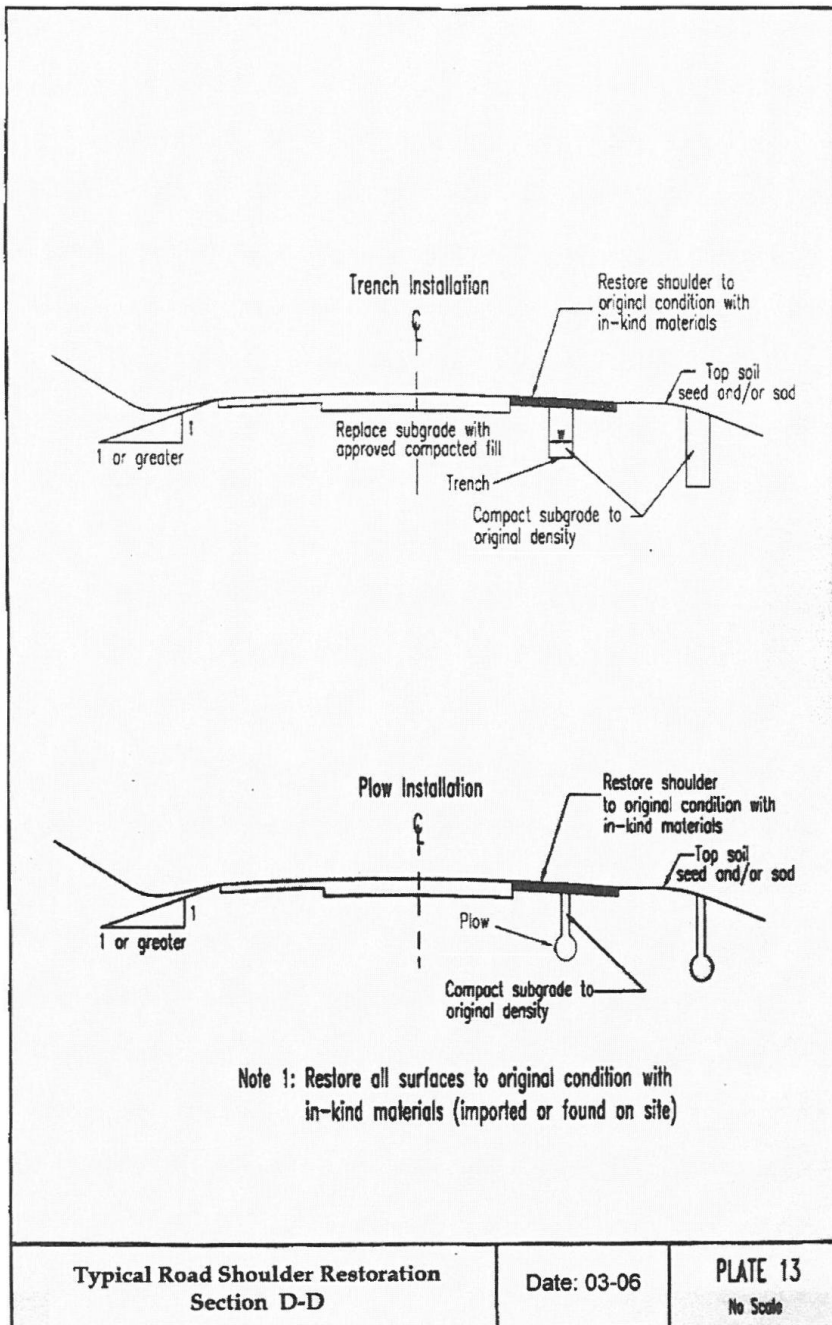


Note 1: Restore all surfaces to original condition with in-kind materials (imported or found on site)

Typical Road, Driveway, or Path Restoration

Date: 03-06

PLATE 12
No Scale



TITLE VII: TRAFFIC CODE

[Reserved]

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. DANGEROUS DOGS
- 91. LARGE ASSEMBLIES
- 92. PARKS AND RECREATION
- 93. PUBLIC HEALTH; NUISANCES
- 94. EXPLOSIVES
- 95. ZERO PHOSPHORUS
- 96. BUFFER REGULATIONS

CHAPTER 90: DANGEROUS DOGS

Section

Dangerous and Potentially Dangerous Dogs

- 90.01 Purpose and intent
- 90.02 Title
- 90.03 Jurisdiction
- 90.04 Incorporation
- 90.05 Definitions
- 90.06 Dangerous dogs; designation
- 90.07 Dangerous dogs; registration
- 90.08 Dangerous dogs; requirements
- 90.09 Potentially dangerous dogs; designation
- 90.10 Potentially dangerous dogs; requirements
- 90.11 Microchip identification
- 90.12 Confiscation
- 90.13 Destruction of dogs in certain circumstances
- 90.14 General restrictions
- 90.15 Effective date

- 90.99 Penalty

DANGEROUS AND POTENTIALLY DANGEROUS DOGS

§ 90.01 PURPOSE AND INTENT.

It is the intent of the county to protect the public against the health and safety risks posed by dangerous and potentially dangerous dogs. By their very nature, dogs classified as “dangerous” or “potentially dangerous” pose a direct threat to the people and other animals that live in the same community or may otherwise come into contact with them. The intent of this subchapter is to govern and control dangerous and potentially dangerous dogs located within the county. This subchapter uses the same framework as M.S. §§ 347.50 through 347.565, as they may be amended from time to time, which govern dangerous dogs. This subchapter does not regulate, govern or control dogs not considered dangerous or potentially dangerous, or otherwise impact the regulation and control of other animals, whether wild or domestic.

(Ord. 10-01, passed 1-19-2010)

§ 90.02 TITLE.

This subchapter shall be known as, and may be cited and referenced as, the “Wright County Dangerous and Potentially Dangerous Dog Ordinance”; and, when referred to herein, it shall be referenced to as “this subchapter”.

(Ord. 10-01, passed 1-19-2010)

§ 90.03 JURISDICTION.

This subchapter shall apply to all areas of the county; except, this subchapter does not apply in any city or town which has a dangerous dog ordinance complying with state law and which has declared itself to be the Animal Control Authority within its jurisdiction. This subchapter also does not apply to any dog used by law enforcement officials for police work.

(Ord. 10-01, passed 1-19-2010)

§ 90.04 INCORPORATION.

This subchapter expressly adopts and incorporates the provisions of M.S. §§ 347.50 through 347.565. When the provisions of this subchapter impose greater restrictions than those of any other statute, ordinance, rule or regulation, the provisions of this subchapter shall be controlling. Where the provisions of any other statute, ordinance, rule or regulation impose greater restrictions than this subchapter, the provision of such statute, ordinance, rule or regulation shall be controlling.

(Ord. 10-01, passed 1-19-2010)

§ 90.05 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ANIMAL CONTROL AUTHORITY.** Wright County or any law enforcement agent or other public official acting under its direction and control. Additionally, **ANIMAL CONTROL AUTHORITY** shall mean any individual, organization, partnership or entity operating under contract to perform animal control operations pursuant to a written agreement authorized and approved by the County Board of Commissioners, or any city or town located within the county which has declared itself to be the **ANIMAL CONTROL AUTHORITY** within its jurisdiction.

(B) **BOARD.** The Wright County Board of Commissioners.

(C) **COUNTY.** The County of Wright, a political subdivision of the state.

(D) **DANGEROUS DOG.** Any dog that has:

(1) When unprovoked, inflicted death, great bodily harm, substantial bodily harm or permanent disfigurement to any person on public or private property;

(2) When unprovoked, engaged in any attack on any person under circumstances which indicated danger to personal safety;

(3) Killed a domestic animal while off the owner's property;

(4) When unprovoked, has bitten one or more persons on two or more separate occasions;

(5) Been found to be potentially dangerous, and after the owner received notice or personal knowledge that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of a human being or domestic animal; or

(6) Been or will be used, trained or encouraged to fight with another animal; or whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog for fighting with another animal.

(E) **GREAT BODILY HARM.** The meaning given it under M.S. § 609.02, subd. 8, as it may be amended from time to time.

(F) **HEARING.** A proceeding conducted by a hearing officer in accordance with the requirements of this subchapter.

(G) **HEARING OFFICER.** A licensed doctor of veterinary medicine, an animal control authority official or any otherwise qualified impartial hearing officer, appointed by the Board of Commissioners.

(H) **KILLED or KILLS.** A dog **KILLED** or **KILLS** a human being or domestic animal if there was a direct causal connection between the act of the attacking dog and the death of the person or other animal. For domestic animals which were euthanized following such an attack, **KILLED** or **KILLS** shall mean the death was the direct and inescapable consequence of the attack, extensive veterinarian assistance would be futile and that euthanasia merely hastened the inevitable death of the victim animal.

(I) **OWNER.** Any person or persons, firm, corporation, association, organization or department possessing, harboring, keeping, having an interest in or having care, custody or control of a dog. Any person keeping or harboring a dog for five consecutive days shall, for the purposes of this subchapter, be deemed to be an **OWNER** thereof.

(J) **POTENTIALLY DANGEROUS DOG.** Any dog that has:

(1) When unprovoked, bitten a human or domestic animal on public or private property;

(2) When unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than upon the dog owner's property, in an apparent attitude of attack; or

(3) A known history or propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(K) **PROPER ENCLOSURE.** Securely confined indoors, or in a securely enclosed and locked pen or structure outdoors, suitable to prevent the animal from escaping and providing the dog protection from the elements. A **PROPER ENCLOSURE** does not include a porch, patio or any part of a house, garage or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting. Such enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel, in order to qualify as a **PROPER ENCLOSURE**, shall meet the following minimum specifications:

(1) The overall floor size shall have a minimum area of 32 square feet;

(2) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be one and one-quarter-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches into the ground;

(3) A cover over the entire pen or kennel shall be provided, constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches; and

(4) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(L) **SUBSTANTIAL BODILY HARM.** The meaning given to it under M.S. § 609.02, subd. 7a, as it may be amended from

time to time.

(M) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(Ord. 10-01, passed 1-19-2010)

§ 90.06 DANGEROUS DOGS; DESIGNATION.

(A) *Designation.* The Animal Control Authority or Hearing Officer shall designate any dog as a dangerous dog upon receiving evidence that the dog meets any of the criteria of applicable state law or § 90.05 of this chapter.

(B) *Notice.*

(1) Upon a designation that a dog is dangerous, the Animal Control Authority shall provide a written notice of dangerous dog to the owner of record or, if none, to any owner of such dog by personally serving the owner or a person of suitable age and discretion at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and include the following:

- (a) A description of the dog deemed to be dangerous;
- (b) The factual basis for that determination; and
- (c) The identity of the official who made the determination.

(2) The notice shall also set forth the registration requirements and other restrictions imposed upon a dangerous dog under this subchapter or M.S. Ch. 347, as it may be amended from time to time.

(3) The notice shall also advise the owner(s) that they have ten days to appeal the determination by requesting a hearing before the Hearing Officer, and shall include a preprinted form which the owner can use to request a hearing. The request for a hearing shall be made directly to the Animal Control Authority, and must be submitted in writing.

(4) If the owner does not request a hearing within the allotted ten days, the designation of dangerous dog as issued in the written notice of dangerous dog will stand, and the owner will be subject to all restrictions and requirements as set forth in the notice by the Animal Control Authority.

(C) *Hearing.*

(1) If an owner, within ten days of the date of the notice, requests a hearing for determination as to the dangerous nature of the dog, the hearing shall be held before a Hearing Officer within ten days after the Animal Control Authority is notified of the owner's request for a hearing. The Hearing Officer may allow the hearing date to be extended beyond the ten-day period for good cause. Any dog owner who requests such a hearing is liable to the county for all costs and expenses related to the hearing.

(2) Pending the hearing, the dog may be seized and kept at Animal Control unless the owner shows proof that the dog is properly licensed, if required; has met the requirement for rabies vaccinations; keeps the dog only in a proper enclosure unless restrained on a leash with a muzzle; and

otherwise demonstrates to the Animal Control Authority that the dog, under its present circumstances, does not present an unreasonable risk of harm to persons or other domestic animals.

(3) The records of the Animal Control Authority, any police reports relating to an attack or bite, medical records and all reliable hearsay shall be admissible for consideration by the Hearing Officer without further foundation.

(4) The Animal Control Authority shall be represented by the County Attorney's office. The owner may be represented by private legal counsel of the owner's choosing, although the owner does not have the right to an attorney at public expense.

(5) At the hearing, both the owner and the Animal Control Authority may present the testimony of live witnesses, cross-examine witnesses and present documentary evidence. The Animal Control Authority, and the dog's owner, may apply to the District Court for subpoenas for hearings.

(6) The burden of proof shall be upon the Animal Control Authority. The standard of proof shall be clear and convincing evidence if the Authority seeks to destroy the dog; in all other cases, it shall be by a preponderance of the evidence.

(7) After considering all evidence pertaining to the dog, the Hearing Officer shall make such order as he or she deems proper, including ordering the Animal Control Authority to take the dog into custody, if the dog is not currently in custody.

(8) Any person who fails or refuses to release a dog to the Animal Control Authority or law enforcement agent upon demand, or after it has been found by a Hearing Officer to be dangerous and ordered into custody, shall be guilty of a misdemeanor.

(9) Authority to order destruction. The Hearing Officer, upon finding that a dog is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed based on a written order containing findings of fact establishing that each of the following criteria are present:

- (a) The dog is dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks;
- (b) The owner of the dog has demonstrated an inability or unwillingness to sufficiently control the dog in order to

prevent injury to persons or other animals; and

(c) The owner cannot, will not, does not or otherwise refuses to provide proof of the liability insurance for the dog as required by § 90.07(C)(3) of this chapter.

(10) The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the state's Court of Appeals.

(11) The owner or person claiming an interest in the dog is liable for all actual costs of care, keeping, and disposal of the dog, except to the extent that a court or Hearing Officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full, or a mutually satisfactory arrangement for payment must be made between the county and the person claiming an interest in the dog, before the dog is returned to the person.

(D) *Exemption.* A dog may not be declared dangerous if the threat, injury or damage was sustained by a person who:

- (1) Was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) Was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
- (3) Was committing or attempting to commit a crime against the owner or the owner's property.

(E) *Review of designation.* Beginning one year after a dog is declared a dangerous dog, an owner may request annually in writing that the Animal Control Authority or the Hearing Officer review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, sterilization, environment, completion of obedience training that includes modification of aggressive behavior or other factors. If the Animal Control Authority or Hearing Officer finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the dangerous dog designation. If a review of designation is conducted by the Hearing Officer, the burden of proof shall be upon the dog's owner and the standard of proof is clear and convincing evidence.

(Ord. 10-01, passed 1-19-2010)

§ 90.07 DANGEROUS DOGS; REGISTRATION.

(A) *Requirements.* For any dog determined or declared to be dangerous by operation of this subchapter, state statute, court order, ordinance or regulation from another jurisdiction, or valid declaration from an Animal Control Authority, the dog shall, at all times during the dog's life, be registered as a dangerous dog pursuant to this subchapter or state law.

(B) *Registration.* No person may own or possess a dangerous dog in the county unless the dog is registered as provided in this subchapter or applicable state law. All dogs deemed dangerous by the Animal Control Authority or Hearing Officer, as applicable, shall be registered as a dangerous dog with the Animal Control Authority within 30 days after the date the dog was so deemed.

(C) *Registration requirements.* The Animal Control Authority shall issue a certificate of registration to the owner of a dangerous dog only if the owner presents sufficient evidence that all of the following are met:

- (1) The owner provides and maintains a proper enclosure for the dangerous dog, as defined in §90.05 of this chapter;
- (2) The owner posts clearly visible warning signs, understandable to children, that there is a dangerous dog on the property. These warning signs must be posted on the front and the rear of all buildings on the property and upon the proper enclosure for the dog. The warning signs must meet the requirements set forth in M.S. § 347.51, as it may be amended from time to time, and § 90.08 of this chapter;
- (3) The Owner provides, and annually shows proof of, public liability insurance pre-paid in full in the minimum amount of \$500,000 per person and \$1,000,000 per incident, payable to any person or persons injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$500,000 per person and \$1,000,000 per incident insuring the owner for any personal injuries inflicted by the dangerous dog;
- (4) The owner pays the annual registration fee set by Board pursuant to division (E) below;
- (5) An identification microchip was implanted in the dog as required under M.S. § 347.515, as it may be amended from time to time, and § 90.11 of this chapter;
- (6) The dog must have a lifetime license, if required, and must be up to date on all vaccinations including rabies; and
- (7) The dog must be sterilized. If not done within 30 days, Animal Control Authority shall seize the dog and have it sterilized at the owner's expense.

(D) *Release.* If a dangerous dog was impounded by the Animal Control Authority, or upon order of a Hearing Officer, the dog shall not be released until the owner demonstrates to the Animal Control Authority that all applicable requirements of this subchapter, including all registration requirements imposed by this section or applicable state law, have been complied with. The owner shall have a maximum of 30 days to comply with all requirements. The owner must pay the county for all costs incurred in the seizure and boarding of the dog prior to its return.

(E) *Fee.* The county will charge the owner of a dangerous dog an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section. This annual fee will be set by the Board following a public hearing, in an amount not to exceed \$500.

(F) *Revocation.*

(1) Any certificate of registration for a dangerous dog may be revoked, following hearing, if the owner fails to maintain compliance with any registration requirement, or fails to keep or maintain the dangerous dog as required by any provision of this subchapter or applicable state law. The provisions of §§ 90.12 and 90.13 of this chapter, applicable to the seizure and disposition of dogs, shall apply.

(2) The Animal Control Authority shall serve upon the owner a written notice setting forth the alleged reasons why the dog is not being kept in conformance with this subchapter, and shall also notify the owner of the date, time and location of the hearing. Any hearing to revoke a certificate of registration shall be held before a Hearing Officer within 20 days of the date of the notice, and shall comply with all the requirements as set forth in division (C) above. The Hearing Officer may allow the hearing date to be extended beyond the 20-day period for good cause.

(3) If a dangerous dog certificate of registration is revoked following hearing, the Hearing Officer shall order the dog disposed of immediately or, in the alternative, permit the owner a reasonable time period, not to exceed 30 days, to obtain the dog if the owner is in compliance with all registration requirements.

(G) *Registration renewal.* An owner of a dangerous dog shall renew the registration of the dog annually until the dog is deceased.

(H) *Death or relocation of dangerous dog.* An owner of a dangerous dog shall notify the Animal Control Authority, in writing, of the death of the dog, or if the dog relocates or transfers out of the county to a new location or new jurisdiction, within 30 days of the death or relocation. An owner shall, if requested by the Animal Control Authority, execute an affidavit, under oath and penalty of perjury, setting forth either the circumstances of the dog's death and disposition; or the complete name, address and telephone number of the person to whom the dog was transferred.

(I) *Sale or transfer of dangerous dogs.* A person who sells or otherwise transfers ownership or control of a dangerous dog must notify any potential purchaser or transferee, prior to the consummation of the transaction, that the dog was previously designated as dangerous. The seller must also notify the Animal Control Authority, in writing, of the sale and provide the Animal Control Authority with the new owner's name, address and telephone number.

(Ord. 10-01, passed 1-19-2010) Penalty, see §90.99

§ 90.08 DANGEROUS DOGS; REQUIREMENTS.

(A) *Requirements.* For any dog declared dangerous by operation of this subchapter, state statute, court order, an ordinance or regulation from another jurisdiction, or by operation of a declaration by an Animal Control Authority, the owner, in addition to complying with all the registration requirements set forth under § 90.07 of this chapter, shall keep and maintain the dog pursuant to all requirements of this section, all other provisions of this subchapter and all requirements of any applicable state statute.

(B) *Restraint.* An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure, as defined by § 90.05 of this chapter. The dog shall, at all times, be kept in such proper enclosure unless the dog is, at any and all times the dog is outside a proper enclosure, muzzled and restrained by a substantial chain or leash not to exceed six feet in length and under the physical restraint of a responsible person 18 years of age or older. The muzzle, chain and leash must all be of such a design, manufacture and maintained in a condition that will prevent the dog from biting any person or animal, but that will not cause injury to the dog or interfere with its vision or respiration.

(C) *Leased premises.* A person who owns a dangerous or potentially dangerous dog and who rents property from another where the dog will reside shall disclose to the property owner prior to when the dog begins to reside on the property, or prior to entering the lease agreement, and at the time of any lease renewal, that the person owns a dangerous or potentially dangerous dog that will reside at the property.

(D) *Warning symbol.* If the county issues a certificate of registration to the owner of a dangerous dog pursuant to this subchapter, the county must provide, for posting on the owner's property, an adequate number of a warning symbol to inform all persons, including children, that there is a dangerous dog on the property. The design of the warning symbol must be uniform with any specifications for such a sign as issued by the state's Commissioner of Public Safety, if any, and shall otherwise be obtained by the county from the Commissioner of Public Safety. The county will charge the owner a reasonable fee to cover its administrative costs and the cost of the warning symbol.

(E) *Tag.* A dangerous dog registered under this section shall have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, as developed by the Commissioner of Public Safety or the Animal Control Authority, affixed to the dog's collar at all times.

(F) *Property inspection.* The owner of a dangerous dog shall permit the Animal Control Authority and/or law enforcement to enter the property where a dangerous dog is kept or located, at all hours reasonable under the circumstances, without a warrant or other advance judicial process, to inspect the premises so as to ensure compliance with the provisions of this subchapter, applicable state statutes, order from a hearing officer or directive from the Animal Control Authority. The failure of an owner to permit such inspection is, by itself, a ground to immediately seize the dog pursuant to § 90.12 of this chapter and revoke the dangerous dog registration pursuant to § 90.07(F) of this chapter.

(G) *Review.* If, in reviewing the conditions for keeping a dangerous dog, there have been no ordinance violations for a period of two years, the Animal Control Authority or Hearing Officer may use discretion in determining whether the conditions set forth above are still required.

(Ord. 10-01, passed 1-19-2010)

§ 90.09 POTENTIALLY DANGEROUS DOGS; DESIGNATION.

(A) *Designation.* The Animal Control Authority or Hearing Officer shall designate any dog as a potentially dangerous dog upon receiving evidence that the animal meets any of the criteria in § 90.05 of this chapter.

(B) *Notice.*

(1) Upon determination that a dog is potentially dangerous, the Animal Control Authority shall provide a written notice of potentially dangerous dog to the owner of record, or if none, any owner of such dog by personally serving the owner or a person of suitable age and discretion at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall state the dates, times, places and facts of the incidents which form the basis for the determination, and shall include the following:

- (a) A description of the dog deemed to be potentially dangerous;
- (b) The factual basis for that determination; and
- (c) The identity of the official who made the determination.

(2) The notice shall also set forth the restrictions imposed upon a potentially dangerous dog under this subchapter.

(3) The notice shall also advise the owner(s) that they have ten days to appeal the determination by requesting a hearing before a Hearing Officer, and shall include a preprinted form the owner may use to request the hearing. The request for a hearing shall be made directly to the Animal Control Authority, and must be submitted in writing.

(4) If the owner does not request a hearing within the allotted ten days, the designation of potentially dangerous dog as issued in the written notice of potentially dangerous dog will stand, and the owner will be subject to all restrictions and requirements as set forth in the notice by the Animal Control Authority.

(C) *Hearing.*

(1) If an owner requests a hearing within ten days of the date of the notice for determination as to the potentially dangerous nature of the dog, the hearing shall be held before a Hearing Officer within ten days after the Animal Control Authority is notified of the owner's request for a hearing. The Hearing Officer may allow the hearing date to be extended beyond the ten-day period for good cause. Any dog owner who requests such a hearing is liable to the county for all costs and expenses related to the hearing.

(2) The hearing shall be conducted pursuant to the requirements of §90.06(C) of this chapter.

(3) After considering all evidence pertaining to the dog, the Hearing Officer shall issue a written order which rejects or upholds the determination. If the Hearing Officer upholds the determination as potentially dangerous, the order may affirm or modify the conditions recommended by the Animal Control Authority. If, as a result of testimony or other evidence at the hearing, there are grounds for declaring the dog to be a dangerous dog pursuant to § 90.06 of this chapter, the Hearing Officer may change the designation and issue the appropriate orders.

(4) The decision of the Hearing Officer is a quasi-judicial determination that is subject to review by writ of certiorari to the state's Court of Appeals.

(D) *Exemption.* A dog may not be declared potentially dangerous if the threat, injury or damage was sustained by a person who:

- (1) Was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) Was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
- (3) Who was committing or attempting to commit a crime against the owner or the owner's property.

(E) *Review of designation.* The Animal Control Authority, or Hearing Officer, may, upon the written request of the owner, review the status of a dog which has been determined to be potentially dangerous if a period of two years has passed without any further incidents or violations of this subchapter, and may use discretion in determining whether any conditions which have been ordered are still required. If the review is conducted by the Hearing Officer, the burden of proof shall be upon the dog's owner and the standard of proof shall be by clear and convincing evidence.

(Ord. 10-01, passed 1-19-2010)

§ 90.10 POTENTIALLY DANGEROUS DOGS; REQUIREMENTS.

(A) *Microchipping.* Any dog that has been determined to be potentially dangerous shall be microchipped in accordance with § 90.11 of this chapter.

(B) *Other restrictions.* Any dog determined to be potentially dangerous may be subject to any or all of the following restrictions, as determined by the Animal Control Authority or the Hearing Officer.

(1) The owner of a dog may be required to complete an approved dog obedience class within a designated period of time, and provide proof of completion to the Animal Control Authority.

(2) The dog may be required to be kept in a proper enclosure, or restrained by chain or leash not to exceed six feet in length, and/or muzzled, and under the control of a responsible person 18 years of age or older at all times it is outdoors and not inside a proper enclosure.

(3) The owner may be required to post the property where the dog resides with warning signs, readable to children, containing a written notice and warning that a potentially dangerous dog is present on the property. Such signs shall conform to the requirements set forth in § 90.08(D) of this chapter.

(4) The owner may be required to show proof of up-to-date rabies vaccination and, if required, licensing.

(5) The dog may be required to wear, at all times, a tag or marker identifying it as a potentially dangerous dog.

(6) The dog may be required to be sterilized within 30 days of the owner receiving notice.

(Ord. 10-01, passed 1-19-2010)

§ 90.11 MICROCHIP IDENTIFICATION.

It shall be the responsibility of each owner of any dog kept or harbored within the county and determined to be a dangerous or potentially dangerous dog under this subchapter, court order, state statute, designation from the Animal Control Authority or a substantially similar ordinance from another jurisdiction, to ensure that a microchip is implanted in the dog for identification. The name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it must be implanted by a qualified veterinarian or clinic or shelter staff under the direction and control of the Animal Control Authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner.

(Ord. 10-01, passed 1-19-2010)

§ 90.12 CONFISCATION.

(A) *Seizure.* The Animal Control Authority shall immediately seize any dangerous dog or potentially dangerous dog if:

(1) After 30 days after the owner has notice that the dog is dangerous or potentially dangerous, the dog is not validly registered under this subchapter or applicable state law;

(2) After 30 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under this subchapter;

(3) The dog is not maintained in a proper enclosure, as defined in §90.05 of this chapter;

(4) The dog is outside the proper enclosure and not under the proper physical restraint of a responsible person as required under this subchapter or any applicable state law;

(5) The owner is served with written notice, by certified mail to the owner's last known address, that the owner is in violation of any of the requirements of this subchapter or any applicable state statute, or is in violation of any directive issued by the Animal Control Authority or order from a Hearing Officer; and, within 30 days of service of such written notice, has refused or failed to achieve satisfactory compliance;

(6) The Animal Control Authority has reason to believe the dog is a dangerous or potentially dangerous dog, and is kept or maintained under conditions or circumstances creating a unacceptable risk of harm to physical persons or other domesticated animals; or

(7) For any other reason authorized by law.

(B) *Additional dogs subject to seizure.*

(1) Any dog found to be in circumstances which to a reasonable person indicate that the dog has been or will be used, trained or encouraged to fight with another animal, or any animal whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such dog to be fought with another animal, is hereby declared to be a public nuisance and shall be immediately seized and taken to the designated Animal Control center.

(2) Any dog may be seized and held to determine if rabid.

(3) Any dog may be seized and held if suspected of being feral.

(4) Any dog which meets the definitions found in §90.05 of this chapter may be seized and held at Animal Control pending a determination whether the animal is dangerous or potentially dangerous.

(C) *Reclaiming dogs.* A dog seized under this subchapter may be released to the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Authority that all requirements of this subchapter and state law have or will be met. A dog not reclaimed under this division (C) within 30 days may be disposed of as provided under M.S. § 346.37, as it may be amended from time to time, and the owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the dog.

(D) *Subsequent offenses.* If a person has been convicted of a misdemeanor for violating a provision of this subchapter, and the person is charged with a subsequent violation relating to the same dog, the dog shall be seized by the Animal Control Authority. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the dog. If the person is not convicted

of the crime

for which the dog was seized, the owner may reclaim the dog upon payment to the Animal Control Authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the owner within 30 days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under M.S. § 35.71, subd. 3, as it may be amended from time to time. The owner is liable to the Animal Control Authority for the costs incurred in confining, impounding and disposing of the dog.

(Ord. 10-01, passed 1-19-2010)

§ 90.13 DESTRUCTION OF DOGS IN CERTAIN CIRCUMSTANCES.

(A) *Upon infliction of death or bodily harm.* A dog that, when unprovoked, inflicted death or substantial or great bodily harm on a human being on public or private property or, when unprovoked, bit multiple human victims on public or private property in the same attack may be destroyed in a proper and humane manner by the Animal Control Authority. The Animal Control Authority may not destroy the dog until the dog owner is provided the opportunity for a hearing before a Hearing Officer, as set forth in this subchapter.

(B) *Suffering beyond cure.*

(1) Notwithstanding any other provision of this subchapter, any dog taken into custody may be immediately disposed of when the dog is suffering and is beyond cure through reasonable care and treatment, upon a proper determination by a licensed doctor of veterinary medicine.

(2) The county shall recover from the dog's owner all costs incurred under this section.

(C) *Unclaimed dogs.* At the expiration of the time a dog is impounded as provided for in this subchapter, if the dog has not been reclaimed in accordance with the provisions hereof, it shall be the duty of the Animal Control Authority to cause such dog to be destroyed according to the most humane and approved methods, or otherwise disposed of.

(Ord. 10-01, passed 1-19-2010)

§ 90.14 GENERAL RESTRICTIONS.

(A) *Dog ownership prohibited.* Except as provided in division (C) below, no person may own a dog if the person has:

- (1) Been convicted of a third or subsequent violation of §§90.07, 90.08 or 90.11 of this chapter;
- (2) Been convicted of a violation under M.S. § 609.205, clause (4), as it may be amended from time to time;
- (3) Been convicted of a gross misdemeanor under M.S. § 609.226, subd. 1, as it may be amended from time to time;
- (4) Been convicted of a violation under M.S. § 609.226, subd. 2, as it may be amended from time to time; or

(5) Has a dog ordered destroyed under §90.13 of this chapter and been convicted of one or more violations of §§90.07, 90.08 and 90.11 of this chapter or M.S. § 609.226, subd. 2, as it may be amended from time to time.

(B) *Household members.* If any member of a household is prohibited from owning a dog in division (A) above, unless specifically approved with or without restriction by an Animal Control Authority, no person in the household is permitted to own a dog.

(C) *Dog ownership prohibition review.* Beginning three years after a conviction under division (A) above that prohibits a person from owning a dog, and annually thereafter, the person may request that the Animal Control Authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions or other facts that the Animal Control Authority deem appropriate. The Animal Control Authority may rescind the prohibition entirely or rescind it with limitations. The Animal Control Authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Authority rescinds a person's prohibition and the person subsequently fails to comply with any limitation imposed by the Animal Control Authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Authority may permanently prohibit the person from owning a dog in the county.

(Ord. 10-01, passed 1-19-2010) Penalty, see §90.99

§ 90.15 EFFECTIVE DATE.

This subchapter was in full force and effect from and after 3-1-2010.

(Ord. 10-01, passed 1-19-2010)

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99 of this code of ordinances.

(B) (1) Any person who violates any provision of §§90.01 through 90.15 of this chapter is guilty of a misdemeanor.

(2) It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog; to fail to renew the

registration of a dangerous dog; to fail to account for a dangerous dog's death, transfer of ownership or removal from the jurisdiction; to sign a false affidavit with respect to a dangerous dog's death, transfer of ownership or removal from the jurisdiction; or to fail to disclose ownership of a dangerous or potentially dangerous dog to a property owner from whom the person rents property.

(Ord. 10-01, passed 1-19-2010)

CHAPTER 91: LARGE ASSEMBLIES

Section

- 91.01 Purpose
- 91.02 Definitions
- 91.03 Permit required
- 91.04 Exemptions
- 91.05 Permit requirements
- 91.06 Application procedures; fees
- 91.07 Input from road authorities
- 91.08 Permit revocation or suspension
- 91.09 Effective date

- 91.99 Penalty

§ 91.01 PURPOSE.

This chapter is determined necessary and is adopted by the County Board of Commissioners pursuant to the authority contained in M.S. § 375.40, as it may be amended from time to time. Said chapter is intended to ensure that large gatherings or assemblies of people held for musical, racing, entertainment or other communal activities are conducted in accord with proper and acceptable sanitary, police, fire and other health and safety considerations so as to protect the health, safety and general welfare of the public and of the people attending or taking part in the assembly. This chapter does not apply to assemblies occurring entirely within the incorporated limits of any city within the county.

(Res. 96-36, passed 7-9-1996)

§ 91.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ASSEMBLY.** Any public gathering of 250 or more people at any location at any single time for the purpose of musical, racing, political, promotional, social, entertainment or other similar types of activities.

(B) **ASSEMBLY AREA.** The area within which the assembly activities are to take place.

(C) **COUNTY.** The County of Wright in the State of Minnesota.

(D) **COUNTY BOARD.** The Wright County Board of Commissioners.

(E) **FAMILY.** Persons primarily related to each other by blood, marriage or adoption.

(F) **PERMIT.** A permit allowing a large assembly to be held in the county.

(G) **PERMITTED PREMISES.** The entire area to be used by the person to conduct an assembly, including, but not limited to, the assembly area, vehicle parking areas, camping areas and adjacent private and public roads.

(H) **PERSON.** Any individual, partnership, corporation, association, society or group seeking and/or receiving a large assembly permit from the county.

(Res. 96-36, passed 7-9-1996)

§ 91.03 PERMIT REQUIRED.

No person, except those specifically exempted in accordance with §91.04 of this chapter, shall maintain, conduct, allow, promote, advertise, organize, manage or sell or give away tickets to an actual or reasonably anticipated assembly of 250 or more people, whether upon public or private property, without a permit duly approved by the County Board of Commissioners and issued by the County Auditor/Treasurer in accordance with this chapter. Receipt of a valid permit pursuant to this chapter does not waive the need for any other federal, state or local permits or approvals that may be required. County zoning

approval may be required for events regularly held at the same location.

(Res. 96-36, passed 7-9-1996) Penalty, see §91.99

§ 91.04 EXEMPTIONS.

This chapter shall not apply to the following public gatherings:

(A) Any regularly established and permanent place of worship, stadium, athletic field, arena, auditorium, colosseum or other similarly established place of assembly;

(B) Gatherings or activities permitted or licensed by other state laws or county ordinances, including the state's parks system and the county parks system;

(C) Government sponsored fairs held on regularly established fairgrounds; and/or

(D) Family gatherings taking place entirely upon the premises of a family member.

(Res. 96-36, passed 7-9-1996)

§ 91.05 PERMIT REQUIREMENTS.

Before any permit under this chapter may be issued, the person applying shall supply information and demonstrate that the proposed assembly shall satisfy the following requirements.

(A) *Maximum number of people.* A permit shall only allow the assembly of people up to the maximum number of people stated in the permit. The County Board of Commissioners may impose restrictions on the maximum number people which may be assembled as deemed necessary to protect the health, safety and welfare of those people who shall be in attendance, the residents of the area in which the assembly will be held and other residents of the county. The permit holder shall not sell tickets to nor permit to assemble at the permitted premises, more than the maximum permissible number of people stated in the permit.

(B) *Fenced grounds.* A fence or barrier shall enclose assembly area, being of sufficient height and strength to prevent people from gaining unauthorized access to the assembly area, and having sufficient entrances and exits to allow for safe and easy movement into and out of the assembly area. Vehicle parking areas shall be exempted from inclusion within the fencing requirement, but shall be considered to be a part of the permitted premises.

(C) *Water.* Potable water must be provided, meeting all federal and state requirements for sanitary quality, in sufficient quantities to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day. If the assembly is to continue for more than 24 consecutive hours, water for bathing must be provided at the rate of at least ten gallons per person per day.

(D) *Food.* The preparation, sale and dispensing of any food on the permitted premises shall be by vendors licensed by the state's Department of Health.

(E) *Toilets.* Enclosed toilets allowing for separate use by males and females, sufficient in number to accommodate the maximum number of people to be assembled, shall be provided and shall be conveniently located throughout the permitted premises. Such facilities shall be provided in accordance with state regulations and the recommendations of the County Office of Planning and Zoning, Division of Environmental Health.

(F) *Solid waste disposal.* The permitted premises shall be maintained in a neat and orderly manner and the permit holder shall provide a sanitary method of disposing of solid waste which is of sufficient size to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half pounds of solid waste per person per day. The method of disposal shall also provide for collection and removal from the permitted premises of all solid waste at least once each day of the assembly. The handling and disposal of solid waste shall also be accomplished in compliance with all county and state regulations regarding solid waste.

(G) *Noise.* All necessary precautions shall be taken to ensure that the sound of the assembly shall not carry unreasonably beyond the permitted premises.

(H) *Parking.* The permit holder shall, at a minimum, provide a parking area of sufficient size to provide parking space for the maximum number of people to be assembled, based upon a calculated rate of at least one parking space for every three people. All parking must be off of public roadways.

(I) *Public telephones.* Public telephones shall be provided so as to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 500 persons or any incremental portion in excess thereof.

(J) *Administrative control center.* An Administrative Control Center shall be provided by the permit holder which shall be equipped with a telephone by which local authorities may contact the permit holder, law enforcement personnel or other people in attendance at the assembly.

(K) *Lighting.* For Assemblies continuing during hours of darkness, the permit holder shall provide sufficient illumination to safely light the entire permitted premises, but such illumination shall not unreasonably extend beyond the boundaries of the permitted premises.

(L) *Medical facilities.* The permit holder shall ensure the availability of appropriate medical facilities. For assemblies in

excess of 500 people, the permit holder shall provide an emergency ambulance on the site of the assembly staffed by at least two licensed emergency attendants. The necessity of additional medical facilities and personnel shall be determined by the emergency medical providers for the assembly.

(M) *Security.* The Permit holder shall prepare and implement a security, traffic, weather emergency and alcohol and drug control plan which shall meet the requirements of local authorities, including the County Sheriff. The permit holder may be required to provide for the presence of law enforcement personnel in such numbers as determined and deemed appropriate by the County Sheriff.

(N) *Fire protection.* The permit holder shall submit a plan for fire protection, as approved by the Fire Chief of the Fire Department serving the location of the assembly.

(O) *Camping facilities.* If the assembly is to continue overnight, camping facilities shall be provided which are sufficient to provide accommodations for the maximum number of persons reasonably anticipated to remain overnight.

(P) *Insurance.* Prior to the issuance of a permit, the person shall file with the County Auditor/Treasurer a certificate of insurance demonstrating that the person has obtained a policy of insurance in the amount of not less than \$1,000,000 coverage for bodily injury, death or property damage arising out of the assembly.

(Q) *Bond.* Prior to the issuance of a permit, the person shall file with the County Auditor/Treasurer a bond, either in cash, or underwritten by a surety company licensed to do business in the state, or an irrevocable letter of credit in an amount to be determined by the County Board of Commissioners, which bond shall indemnify and hold harmless the county or any of its agents, officials or employees from any liability, claims or causes of action which might arise by reason of granting this permit. Said bond shall also cover the payment for services provided to the permit holder by the county and for payment of any cost incurred in cleaning up, removing and disposing of any solid waste left by the assembly. No portion of the bond shall be released to the permit holder until all provisions of the permit have been satisfied, as determined by the County Board of Commissioners.

(R) *Variances.* The County Board of Commissioners may consider requests for variances from any of the above permit requirements when a person can show that strict compliance with this chapter would cause undue hardship by reason of the special nature of the proposed assembly, the proposed duration of the assembly or by reason of the circumstances surrounding the proposed assembly which would make certain requirements of this section unnecessary. The County Board of Commissioners may only grant a variance when it may be done without detriment to the public health, safety or welfare and where granting the variance will not otherwise impair the intent and purpose of this chapter.

(Res. 96-36, passed 7-9-1996) Penalty, see §91.99

§ 91.06 APPLICATION PROCEDURES; FEES.

(A) *Application.* A completed application for a large assembly permit shall be made in writing on a form provided by the County Auditor/Treasurer. Said application shall be submitted to the County Auditor/Treasurer at least 60 days in advance of the proposed assembly.

(B) *Verification.* The application shall be signed and verified by the person seeking the permit. In the case of a corporation, the application shall be signed by the president or other authorized representative. In the case of any other association, society or group, the application shall be signed by the appropriate officers or, if there are no officers, by all members. In the event that the proposed assembly is to occur on property owned by a party other than the person applying, the application shall also be signed by the property owner.

(C) *Fee.* The application and permit fee for each permit issued under this chapter shall be in accordance with the fee schedule as adopted by resolution of the County Board of Commissioners. The non-refundable application fee shall be paid at the time of submitting a completed application.

(D) *Contents.* The person seeking a permit shall supply all information requested on the application form, including the following:

- (1) The name, date of birth, residence and mailing address of the person applying and of each individual required by division (B) above to sign the application;
- (2) The address and legal description of the proposed permitted premises, together with the name, residence and mailing address of the record owner(s) of all such property;
- (3) The nature or purpose of the proposed assembly;
- (4) The dates and times during which the proposed assembly will be held; and
- (5) Detailed information as to how the person applying will ensure that the assembly will comply with the requirements of § 91.05 of this chapter.

(Res. 96-36, passed 7-9-1996)

§ 91.07 INPUT FROM ROAD AUTHORITIES.

Within 30 days of submitting the completed application under this chapter, the person applying shall secure the approval of the appropriate road authorities for the traffic control plan and points of access onto established public road systems for purposes of the assembly.

(Res. 96-36, passed 7-9-1996)

§ 91.08 PERMIT REVOCATION OR SUSPENSION.

Any permit issued under this chapter may be revoked by the County Board of Commissioners for violation of any of the provisions of this chapter or for failure to comply with any of the conditions contained within the permit. The County Sheriff may suspend operation of and close any assembly prior to the expiration of the permit granted under the provisions of this chapter in the event of a riot, major disorder or serious breach of the peace, as necessary to prevent injury to people and/or damage to property.

(Res. 96-36, passed 7-9-1996)

§ 91.09 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage and publication according to law.

(Res. 96-36, passed 7-9-1996)

§ 91.99 PENALTY.

(A) *General.* Any person violating any of the provisions of this chapter or who makes any false statement on the application required by § 91.06 of this chapter shall be guilty of a misdemeanor.

(B) *Injunctive relief.* In addition to other remedies, the County Board of Commissioners may authorize the County Attorney to institute appropriate actions or proceedings to prevent, restrain, correct or abate violations of this chapter.

(Res. 96-36, passed 7-9-1996)

CHAPTER 92: PARKS AND RECREATION

Section

- 92.01 Purpose
- 92.02 Definitions
- 92.03 General conduct
- 92.04 Protection of natural resources and wildlife
- 92.05 Recreational activities
- 92.06 Vehicle regulations
- 92.07 Park operation
- 92.08 Bertram Chain of Lakes
- 92.09 Enforcement
- 92.10 Effective date

- 92.99 Penalty

§ 92.01 PURPOSE.

The purpose of this chapter, which is enacted pursuant to state statutes, is to secure the quiet, orderly and suitable use and enjoyment of public park reserves, county recreation areas, county-wide trail systems, wildlife sanctuaries, forest, historical sites, waysides and public access to lakes, rivers and streams in parks established by the county and to further the safety, health, comfort and welfare of all persons in the use thereof.

(Ord. 14-02, passed 5-13-2014)

§ 92.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ALCOHOLIC BEVERAGE.** Any intoxicating beverage, as defined by state statutes and includes, but is not limited to, intoxicating liquor, strong beer, 3.2% beer and wine.

(B) **ASSISTED MOBILITY DEVICE.** Any permitted single passenger, electric powered device, which provides access for a person in need of assistance due to a medical condition.

(C) **CONTROLLED SUBSTANCE.** Any substance defined as a controlled substance by M.S. Ch. 152, as it may be

amended from time to time, or by other statutes or federal law or regulations.

(D) **MOTORIZED RECREATION VEHICLES.** Any self-propelled, off-the-road or all terrain conveyance, including but, not limited to, a snowmobile, mini-bike, amphibious vehicle, motorcycle, go-cart, trail bike or dune buggy.

(E) **PARK.** Any land or water area, and all facilities thereon, established as a park by the county pursuant to state statutes.

(F) **PARK ADMINISTRATOR.** The person appointed by the County Board of Commissioners to serve as the chief administrative officer of the county park system.

(G) **PARK MANAGER.** The person designated by the County Board of Commissioners with the responsibility for the operation and management of a particular park or parks.

(H) **PARK VISITOR.** Any person, firm, partnership, association, corporation, governmental unit, company or organization of any kind within a park.

(I) **PERMIT/SPECIAL USE PERMIT.** Written permission obtained from the Park Administrator or the County Parks Commission to carry out certain activities.

(J) **VEHICLE.** Any motorized, self-propelled, animal-drawn or human powered conveyance.

(K) **WEAPON.** Any device including, but not limited to, firearms, bows and arrows, slings and spring guns, pellet or BB guns, and electronic weapons, from which a shot or projectile of any type is discharged or propelled by means of an explosive, gas, compressed air or other means. An **ELECTRONIC WEAPON** means a portable device which is designed, used or intended to be used, offensively or defensively, to immobilize or incapacitate persons by the use of an electric current.

(L) **WILDLIFE.** All living creatures, not human, wild by nature, endowed with sensation and power or voluntary motion, including quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.

(Ord. 14-02, passed 5-13-2014)

§ 92.03 GENERAL CONDUCT.

(A) *Possession and use of alcohol and controlled substances.* It shall be unlawful for any person to:

(1) Serve, possess or consume any alcoholic beverage or controlled substance within a park, except as follows:

(a) Malt beverages and wine, as defined under M.S. § 340A.101 as it may be amended from time to time, which is not in a glass container, may be possessed or consumed at reserved facilities and in designated and permitted campsites;

(b) Intoxicating liquor, as defined under M.S. § 340A.101 as it may be amended from time to time, may be possessed or consumed in a reserved facility if the intoxicating liquor was distributed by a person with a Caterer's Permit as regulated under Minn. Stat. § 340A.404, Subd. 12, as it may be amended from time to time and prior notice of the event is given to the county sheriff.

(2) Notwithstanding division (1) above, alcoholic beverages are never permitted within 500 feet of an organized youth activity.

(3) Exhibit any offensive behavior while under the influence of any alcoholic beverage or controlled substance.

(B) *Public nuisance; breach of peace.* It shall be unlawful for any person to:

(1) Use threatening, abusive, insulting, obscene or indecent language, or to act in an indecent manner, or to do any act which constitutes a breach of the public peace in a park;

(2) Disturb, harass or interfere with any park visitor or a park visitor's property;

(3) Gamble in a park; and/or

(4) Use loudspeakers or other amplifying systems in a park, except with written permission from the Park Administrator.

(C) *Littering; release of foreign substance.* It shall be unlawful for any person to:

(1) Deposit, scatter, drop or abandon in a park any bottles, cans, broken glass, sewage, waste or other material, except in receptacles provided for such purposes. Said waste receptacles are to be used only by park visitors for such wastes as are created during use of the park for recreational activities. Other use of said waste receptacles is a violation of this chapter; and/or

(2) Throw, discharge or place in any park or upon any lake, stream, creek, pond or other body of water in or adjacent to any park, or upon any tributary, stream, storm sewer or other drain flowing into such waters, any foreign substance, liquid, solid or gas.

(D) *Fires.* It shall be unlawful for any person to:

(1) Start a fire in a park, except in a designated area, such as a fireplace or fire ring, or as otherwise allowed by a permit;

(2) Leave a fire unattended or fail to fully extinguish a fire; and/or

(3) Drop, throw, or otherwise leave unattended in a park, lighted matches, burning cigars, cigarettes, tobacco, paper or other combustible material.

(E) *Destruction of park property.* It shall be unlawful for any person to intentionally deface, vandalize or otherwise cause destruction to park property.

(F) *Possession and use of weapons.* It shall be unlawful for any person to possess, hold, store, keep or carry within any park land, facility or buildings, fire or discharge, or cause to be fired or discharged across, in or into any portion of the any park land, facility or building and pistol, BB gun, rifle or other firearm, spear, bow and arrow, crossbow, slingshot, air or gas weapon, paintball gun or any other dangerous weapon or projectile, except for purposes designated by the Parks Administrator in areas and at times designated by the Parks Administrator. Persons who possess a valid state permit, or a valid permit from another state which is recognized in the state may carry, hold, keep, store or possess a pistol within any park land, facility or building to the extent permitted by state law. Licensed peace officers are exempt from the provisions of this division (F).

(G) *Commercial use; public meetings and assemblies.* It shall be unlawful for any person to:

- (1) Sell, solicit or carry on any business or commercial enterprise or service in a park without a permit; and/or
- (2) Conduct public meetings, assemblies, entertainment, parades or demonstrations, within a park, without first obtaining a permit, and then only in areas designated by the permit.

(H) *Pets.* It shall be unlawful for any person to:

- (1) Bring a dog, cat or other pet into a park unless caged or kept on a non-retractable leash not more than six feet in length, or to tether any animal to a tree or other plant;
- (2) Permit any dog, cat or other pet to enter a beach area, nature center area, refuge area, picnic area, park building or other unauthorized area within a park or into any park where their presence is prohibited by the Park Administrator; and/or
- (3) Permit a dog, cat or other pet to disturb, harass, or interfere with any park visitor or a park visitor's property.

(Ord. 14-02, passed 5-13-2014; Ord. 19-3, passed 10-22-2019) Penalty, see §92.99

§ 92.04 PROTECTION OF NATURAL RESOURCES AND WILDLIFE.

(A) It shall be unlawful for any person to:

- (1) Injure, destroy or remove any tree, flower, shrub, plant, rock, soil or mineral in a park;
- (2) Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed, any species of wildlife within a park; except that, fishing may be permitted in designated areas;
- (3) Remove any wildlife, living or dead, from a park, and any wildlife so removed or taken contrary to the provisions of this chapter or any laws of the state shall be considered contraband and subject to seizure and confiscation; and/or
- (4) Release within a park any plant, chemical or other agent intentionally harmful to the vegetation or wildlife of the park.

(B) The county sponsored hunting events for veterans of the United States Armed Forces are exempt from the provisions of divisions (A)(2) and (A)(3) above.

(Ord. 14-02, passed 5-13-2014) Penalty, see §92.99

§ 92.05 RECREATIONAL ACTIVITIES.

(A) *Camping.* It shall be unlawful for any person to:

- (1) Camp in a park, except in areas provided and designated for that purpose;
- (2) Camp in a park without a permit;
- (3) Cause, create or make any noise which disturbs the peace, quiet and tranquility of the camping area;
- (4) Discharge water or any other waste in a park, except into designated containers, drains or dumping stations;
- (5) Dig trenches or make any other excavations in a park; and/or
- (6) Occupy camp sites in a park contrary to a permit, or violate any provision of a permit.

(B) *Swimming.* It shall be unlawful for any person to:

- (1) Wade or swim within a park, except at beaches designated for that purpose, and then only between sunrise and sunset, or such hours as may be designated by the Park Administrator, and park visitors shall swim or wade at their own risk when lifeguards are not on duty;
- (2) Wade, swim or use any beach in a park without proper bathing attire;
- (3) Take cans, bottles or glass of any kind, except eye glasses, into a designated beach area; and/or
- (4) Use air mattresses, inner tubes or other inflatable devices, except in designated beach areas.

(C) *Boating.* It shall be unlawful for any person to:

- (1) Launch or land any boat, yacht, canoe, raft or other watercraft upon any water, lagoon, lake, pond or slough within a

park, except at locations and times designated for that purpose;

(2) Leave unattended any boat or other watercraft, except in areas designated for that purpose;

(3) Operate any watercraft in a designated swimming area or other prohibited area; and/or

(4) Operate any watercraft in a park in violation of M.S. Ch. 86B, Water Safety, Watercraft and Watercraft Titling, as it may be amended from time to time.

(D) *Fishing*. It shall be unlawful for any person to:

(1) Fish in a park in violation of any provision of M.S. Ch. 97C, as it may be amended from time to time;

(2) Fish in a park area designated as a no fishing area;

(3) Leave any structure or shelter on a frozen body of water in any park for more than 72 hours; and/or

(4) Leave, store, abandon or otherwise cause to remain on any park property or access site, any fish house, dark house, portable shelter or other structure. Any such structure left on park property for more than 72 hours will be confiscated and/or destroyed.

(E) *Horseback riding*. It shall be unlawful for any person to:

(1) Ride, lead or permit a horse to be within a park, except in designated riding areas and at designated hours; and/or

(2) Ride a horse in a reckless manner or in a manner to create a nuisance or to likely endanger the safety or property of any park visitor.

(F) *Bicycling*. It shall be unlawful for any person to:

(1) Operate a bicycle except on park designated bikeways and roadways, and except as close to the right-hand side thereof as conditions will permit;

(2) Operate a mountain bike or similar cycle, except on bike trails and roadways as permitted by the Park Administrator; and/or

(3) Ride or operate a bicycle in a less than prudent and careful manner, or at speed faster than is reasonable and safe with regard to the safety of the operator and other persons in the immediate area.

(G) *Roller skating/rollerblading*. It shall be unlawful for any person to:

(1) Roller skate or rollerblade in a park, except on paved bike trails unless posted otherwise; and/or

(2) Roller skate or rollerblade in a park in a less than prudent and careful manner, or at a speed faster than is reasonable and safe with regard to the safety of the operator and other persons in the immediate area.

(H) *Winter activities*. It shall be unlawful for any person to:

(1) Skate, sled, coast, snowshoe or ski in a park, except at such times and at such paces as may be designated therefore; and/or

(2) Cross-country ski in a park in violation of M.S. Ch. 85, as it may be amended from time to time (without the required license).

(I) *Snowmobiling*. It shall be unlawful for any person to:

(1) Operate a snowmobile in a park, except at such times and at such places as may be designated therefore; and/or

(2) Operate a snowmobile in a park in excess of the posted speed limits, at a rate of speed greater than reasonable or proper under current conditions, or in a careless, reckless or negligent manner so as to endanger the person or property of another, or to cause injury or damage thereto.

(J) *Use of motorized recreation vehicles*. It shall be unlawful for any person to operate a motorized recreation vehicle within a park, except at such times and in such areas as designated by the Park Administrator.

(K) *Use of aircraft*. It shall be unlawful for any person to:

(1) Use any land or body of water within a park for a starting or landing field for aircraft, hot air balloons or parachutes, without a permit from the Park Administrator; and/or

(2) Start, fly or use any fuel powered model aircraft, model rocket or like-powered toy or model, in a park without a permit.

(Ord. 14-02, passed 5-13-2014) Penalty, see §92.99

§ 92.06 VEHICLE REGULATIONS.

(A) *Operation*. It shall be unlawful for any person to:

(1) Operate any vehicle within a park, except upon roadways, parking areas or other designated locations therefor;

(2) Operate a motorized recreational vehicle within a park except in such areas and at such times as designated by the

Park Administrator or the County Board of Commissioners, or permitted to the extent necessary to accommodate reasonable and safe use of a trail by persons with disabilities dependent upon motorized transport;

- (3) Operate a vehicle in a park at a speed in excess of posted speed limits;
- (4) Operate a vehicle in a park in a reckless or careless manner; and/or
- (5) Operate a vehicle which emits excessive or unusual noise, noxious fumes, dense smoke or other polluting matter in a park.

(B) *Parking.* It shall be unlawful for any person to:

- (1) Park or leave a vehicle standing within a park, except in a designated parking area; and/or
- (2) Park or leave a vehicle standing after posted closing hours without a valid camping permit or other special use permit.

(C) *Wash and repair.* It shall be unlawful for any person to wash, polish, grease, change oil or repair any vehicle in a park.

(Ord. 14-02, passed 5-13-2014) Penalty, see §92.99

§ 92.07 PARK OPERATION.

(A) *Hours of operation.*

(1) Parks shall be open to the public daily from 6:00 a.m. until 10:00 p.m., unless otherwise posted. It shall be unlawful for a person to enter or remain in a park at any other time, except for campers in a designated camping area.

(2) Any park or portion thereof may be declared closed to the public by the Park Administrator, by the County Board of Commissioners or by the County Sheriff, at any time, and for any interval of time, for the protection of park property, for the protection of the public health, safety or welfare, or as the Park Administrator, the County Board of Commissioners or the County Sheriff shall find reasonably necessary.

(B) *Permits.*

(1) A person may be granted a permit by the Park Administrator or his or her authorized representative for special uses or activities within a park, or for temporary exclusive use of a reserved space within a park.

(2) Permits shall be required for any entertainment, tournament, exhibition or any other special use of gathering which can reasonably be expected to involve 50 or more persons.

(3) The Park Administrator or his or her authorized representative may impose conditions upon use in connection with the granting of a permit. Any person, whether the permit applicant or not, who is using a park in accordance with a permit that has been granted, shall comply with the conditions of said permit.

(4) It shall be unlawful for a person to violate any conditions of a permit.

(5) Any permit granted pursuant to this section may be revoked by the Park Administrator or his or her authorized representative upon the violation by the permit holder of any portion of this chapter or any provision of state statutes.

(C) *Park fees.* It shall be unlawful for any person to use any facility or area for which a fee or charge has been established by the county parks without payment of such fee or charge.

(D) *Liability.* The county and county parks shall not be liable for any loss, damage or injury to property or persons sustained by any park visitor.

(Ord. 14-02, passed 5-13-2014; Ord. 19-3, passed 10-22-2019) Penalty, see §92.99

§ 92.08 BERTRAM CHAIN OF LAKES.

(A) This section shall apply to the operation and use of all grounds and waters within the boundaries of the Bertram Chain of Lakes and are supplementary to the any other general park ordinance.

(B) Whoever does any of the following, without a permit, is guilty of a crime: violates any of the restrictions as provided by § 131.04(A) of this code of ordinances.

(C) Licensed peace officers and employees of the County Parks Department, in the official pursuit of their duties, are exempt from the provisions of this section.

(Ord. 14-02, passed 5-13-2014) Penalty, see §92.99

§ 92.09 ENFORCEMENT.

(A) The Park Administrator and the County Board of Commissioners shall have the right to issue administrative rules and regulations for the purpose of clarifying and administering this chapter.

(B) The County Sheriff's office, other peace officers, DNR Conservation Officers and designated county parks employees shall have the authority to enforce the provisions of this chapter and may eject from a park any persons acting in violation of this chapter.

(C) Nothing in this chapter shall prevent county parks employees from performing their assigned duties.

(D) No person shall impersonate any county parks employee, nor shall they interfere with, harass or hinder any county parks employee in the discharge of his or her duties.

(Ord. 14-02, passed 5-13-2014) Penalty, see §92.99

§ 92.10 EFFECTIVE DATE.

This chapter shall be effective upon passage and publication according to state statutes.

(Ord. 14-02, passed 5-13-2014)

§ 92.99 PENALTY.

(A) A person guilty of violating any provision of this chapter shall be guilty of a misdemeanor. All fines collected under this chapter shall be deposited in the County Park Fund.

(B) The Park Administrator shall have the authority to revoke for good cause any permit or reservation issued under this chapter.

(Ord. 14-02, passed 5-13-2014)

CHAPTER 93: PUBLIC HEALTH; NUISANCES

Section

General Provisions

- 93.01 Purpose
- 93.02 Objectives
- 93.03 Definitions
- 93.04 General prohibitions
- 93.05 Disclaimer of liability
- 93.06 Fees
- 93.07 Effective date

Administration

- 93.20 Standards adopted
- 93.21 Declaration as public health nuisance
- 93.22 Modifications to or dismissal of the declaration
- 93.23 Access to premises and records
- 93.24 Interference with Health Authority
- 93.25 Investigation and response to public health nuisance
- 93.26 Costs and reimbursements
- 93.27 Appeals

Clandestine Lab Sites

- 93.40 Peace officer notification
- 93.41 Handling hazardous wastes and materials
- 93.42 Posting of site
- 93.43 Actions to secure site
- 93.44 Health Authority notice to owner of site
- 93.45 Remediation plan
- 93.46 Health Authority abates nuisance
- 93.47 Vacating the public health nuisance order
- 93.48 Property disclosure

GENERAL PROVISIONS

§ 93.01 PURPOSE.

This chapter is enacted to protect the health, safety and general welfare of the people of the county pursuant to powers granted under M.S. Ch. 145A and 375, as they may be amended from time to time, and M.S. § 152.0275, as it may be amended from time to time, and subsequent recodifications and/or amendments, and other applicable legislation, as may be adopted from time to time.

(Ord. 11-06, passed 11-29-2011)

§ 93.02 OBJECTIVES.

The principal objectives of this chapter are:

- (A) To prevent injury and illness to occupants of the property and the public, especially children and vulnerable adults;
- (B) To provide countywide standards for the abatement of public health nuisances including, but not limited to, clandestine lab sites;
- (C) To establish responsibility of involved parties and assure that people are not unnecessarily exposed to dangers of public health nuisances; and
- (D) To ensure proper actions are taken to remediate or abate public health nuisances.

(Ord. 11-06, passed 11-29-2011)

§ 93.03 DEFINITIONS.

Definitions of words, phrases and terms used in this chapter shall be those set forth in M.S. §§ 145A.02 and 152.0275, as they may be amended from time to time, and this section. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) **ABATEMENT.** The proper removal and/or containment of substances or materials hazardous to humans and/or the environment. **ABATEMENT** is part of remediation.
- (B) **CHILD.** Any person less than 18 years of age.
- (C) **CLANDESTINE LAB SITE.** Any structure or conveyance or outdoor location occupied or affected by the conditions or chemicals typically associated with the manufacturing of methamphetamine or other unlawful manufacture of a controlled substance.
- (D) **CONTROLLED SUBSTANCE.** A drug, substance or immediate precursor as defined in M.S. § 152.01, subd. 4, as it may be amended from time to time. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- (E) **COUNTY.** Wright County.
- (F) **EMERGENCY RESPONSE.** Includes, but is not limited to, removing and collecting evidence; securing the site; and removal, remediation and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities or the property owner.
- (G) **GARBAGE.** Any discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
- (H) **HEALTH AUTHORITY.** The County Human Services Board and its designated employees, agents or contractors, as the County Board of Commissioners may designate.
- (I) **OCCUPANT.** Any person who occupies real property, whether with or without any right, title or interest in the property, and any person in possession or charge of such property, in the event the owner resides or is located elsewhere.
- (J) **OWNER.** Any person, persons, organization or corporation that owns, in whole or in part, the land, structure or other property or is the purchaser of the property under contract for deed.
- (K) **PERSONAL PROPERTY.** All property other than that defined in definitions for "property" and "structure" herein that is subject to ownership.
- (L) **PROPERTY.** Publicly- or privately-owned real property, including buildings and other structures, motor vehicles as defined in M.S. § 609.487, subd. 2a, as it may be amended from time to time, public waters and public rights-of-way.
- (M) **PROPERTY AGENT.** A person authorized by a property owner to act in transacting business matters or in managing the affairs of the property.
- (N) **PROFESSIONAL REMEDIATION FIRM.** A firm that has provided written assurance to the Health Authority that they have appropriate equipment, procedures and personnel to accomplish remediation and that they are an experienced HAZMAT

contractor.

(O) **PUBLIC HEALTH NUISANCE.** Any activity or failure to act that adversely affects the public health and shall include, but is not limited to, any condition which poses an immediate and direct hazard to human health if left unremedied due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals or other means of transmission or infections and includes, but is not limited to, a clandestine lab site and other public health hazards.

(P) **REMEDIATION.** Proper cleanup, treatment or containment of hazardous substances or methamphetamine, in accordance with local, state or federal regulations, at or in a clandestine lab site or public health nuisance, and may include demolition or disposal of structures or other property when an assessment so indicates.

(Q) **RUBBISH.** Any non-putrescible solid wastes including, but not limited to, ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, furniture, appliances, concrete, asphalt, tires, plastic, metal or fiberglass.

(R) **STRUCTURE.** A dwelling, building, motor vehicle, trailer, boat, appliance or any other area or location, either fixed or temporary.

(S) **VULNERABLE ADULT.** The meaning as defined in M.S. Ch. 609.232, subd. 11, as it may be amended from time to time.

(T) **WASTE.** Material that, in the opinion of the Health Authority, is no longer of any value for its original purpose and has been or should be discarded.

(Ord. 11-06, passed 11-29-2011)

§ 93.04 GENERAL PROHIBITIONS.

(A) *General.* The creation or maintenance of a public health nuisance is prohibited. The following are hereby expressly declared to be public health nuisances without limitation by reason of such enumeration:

- (1) A clandestine lab site;
- (2) Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure or discharging into a body of water;
- (3) An unsecured hole or opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft or tunnel;
- (4) Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed, insect- and rodent-proof, container designed or reasonably adapted for such purpose, except for the immediate time preceding pick-up by a refuse hauler;
- (5) Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death. This provision shall not apply if the animals, birds or fish are intended for human consumption;
- (6) Accumulation of decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances which can harbor flies, mosquitoes, other disease carrying insects, rodents or other vermin; this definition does not include compost bins or compost sites which are being managed in accordance with acceptable standards;
- (7) Accumulations of waste, refuse, garbage, rubbish or junk as to become dangerous or injurious to the health and safety of any individual or to the public;
- (8) Any structure that has become dangerous for further occupancy because of sanitary defects;
- (9) Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae or hookworm larvae; and
- (10) Unnatural breeding grounds which support mosquito larvae and mosquitoes capable of carrying West Nile Virus, La Crosse Encephalitis Virus or any other disease causing microorganism.

(B) *Jurisdiction.*

(1) This chapter shall be applicable in all incorporated and unincorporated municipalities (city or township) within the boundaries or the county under the jurisdiction of the County Human Services Board.

(2) This chapter does not preempt any ordinances adopted by a city or township related to clandestine lab sites or related to buildings and housing.

(Ord. 11-06, passed 11-29-2011)

§ 93.05 DISCLAIMER OF LIABILITY.

Liability on the part of, or a cause of action against, the county or any officer, employee or agent thereof for any damages that may result from administration and enforcement of this chapter shall be limited as provided by M.S. § 466.02, as it may be amended from time to time.

(Ord. 11-06, passed 11-29-2011)

§ 93.06 FEES.

Fees for the Health Authority complaint investigation, verification, administration and enforcement of violations of this chapter shall be those established by resolution, as amended from time to time, of the County Board of Commissioners.

(Ord. 11-06, passed 11-29-2011)

§ 93.07 EFFECTIVE DATE.

After passage by the County Board of Commissioners, this chapter took effect on 11-29-2011.

(Ord. 11-06, passed 11-29-2011)

ADMINISTRATION

§ 93.20 STANDARDS ADOPTED.

This chapter incorporates by reference the provisions of M.S. Ch. 145A, as it may be amended from time to time, unless clearly inapplicable, and M.S. § 152.0275, as it may be amended from time to time, and all subsequent recodifications and amendments.

(Ord. 11-06, passed 11-29-2011)

§ 93.21 DECLARATION AS PUBLIC HEALTH NUISANCE.

(A) It shall be the duty of the Health Authority to determine whether or not a public health nuisance exists.

(B) For purposes of emergency response and notification to applicable authorities and posting for the public, a peace officer may determine that a structure, property or portion of a property constitutes a public health nuisance, including, but not limited to, the determination that the site constitutes a clandestine lab site.

(Ord. 11-06, passed 11-29-2011)

§ 93.22 MODIFICATIONS TO OR DISMISSAL OF THE DECLARATION.

(A) The Health Authority may modify conditions of the declaration or dismiss the declaration of a public health nuisance.

(B) Such modifications or dismissal shall occur only after the Health Authority has confirmed that the levels of contamination are sufficiently reduced through abatement, remediation or other evidence discovered.

(C) The Health Authority will base its criteria for determining levels of contamination on the best health and safety information available at the time of the remediation and cannot be held liable for future discoveries.

(D) For good cause shown, the owner or occupant may request authorization from the Health Authority for an extension of time to complete abatement activities. The Health Authority may grant such extension if the extension does not increase the risk to public health or safety and is deemed appropriate by the Health Authority.

(Ord. 11-06, passed 11-29-2011)

§ 93.23 ACCESS TO PREMISES AND RECORDS.

The owner or other parties shall, upon the request of the Health Authority and after proper identification, permit access to all parts of the site or structure as often as necessary, and at any reasonable time for the purposes of inspection, remediation and abatement, and shall exhibit and allow copying of any and all records necessary to ascertain compliance with this chapter.

(Ord. 11-06, passed 11-29-2011) Penalty, see §93.99

§ 93.24 INTERFERENCE WITH HEALTH AUTHORITY.

No person shall, in any way, interfere with or hinder the Health Authority in the performance of duties, or refuse the Health Authority access to gather information necessary to ascertain compliance with this chapter.

(Ord. 11-06, passed 11-29-2011) Penalty, see §93.99

§ 93.25 INVESTIGATION AND RESPONSE TO PUBLIC HEALTH NUISANCE.

(A) *Health Authority owner notification.* Upon declaration of a public health nuisance, the Health Authority shall give written notice of its determination and orders to abate the nuisance to the owner, occupant and property agent, if applicable. This notice shall be served in person, by certified mail or by an officer authorized to serve a warrant and contain the following:

- (1) Property location by street address, property identification number or other property description;
- (2) Information identifying the nature of the public health nuisance at the property;
- (3) A summary of the owner's and occupant's responsibilities under this chapter;
- (4) Specific orders for abatement or remediation of the public health nuisance;

(5) A date for completion of the abatement not to exceed ten county business days following the receipt of the notice unless a shorter time is required due to the Health Authority's further determination that the immediate abatement is necessary to protect the public's health and safety. In such cases, the reason for a shortened abatement period shall be specified; and

(6) Information regarding a right of appeal as provided in §93.27 of this chapter and that, unless the threat to public health is abated or removed in accordance with the terms of the notice, the Health Authority will have the public health nuisance abated or removed at the expense of the owner under the provisions of M.S. § 145A.08, as it may be amended from time to time, this chapter or other applicable state or local law.

(B) *Unknown or absent property owner.* In the event the owner of the property is unknown or absent and has no known representative upon whom the notice can be served, the Health Authority shall post a written or printed notice on the property stating that, unless the threat to the public health is abated or removed within the ten county business days, the Health Authority will have the public health nuisance abated or removed at the expense of the owner under the provisions of M.S. § 145A.08, as it may be amended from time to time, this chapter or other applicable state or local law.

(C) *Public notification.* The Health Authority shall provide information in writing about the public health nuisance declaration and potential hazard(s) to the following persons as applicable and appropriate:

- (1) Child protection unit in situations of potential child maltreatment or endangerment;
- (2) Adult protection unit in situations of potential vulnerable adult maltreatment or endangerment;
- (3) Neighbors in close proximity likely to be affected by the conditions found at the site;
- (4) The local municipal clerk, city administrator or other city official;
- (5) Local law enforcement officials; or
- (6) Other state and local authorities that may have public safety or environmental protection responsibilities.

(D) *Warning sign.* The Health Authority shall post a warning sign when deemed necessary to further protect the public health and safety. The warning sign shall be posted on the entrance(s) of the structure or property and contain information sufficient to alert visitors or returning occupants to the site that it may be dangerous to enter and that entry is prohibited unless authorized by the Health Authority or the law enforcement department posting the sign. Any person other than the Health Authority or its designated agent that removes a warning sign shall be in violation of this chapter.

(E) *Health Authority abates nuisance.* If the owner, property agent or occupant, fails or neglects to comply with the requirements in the notice provided under division (A) above, then the Health Authority shall abate or remediate the public health nuisance described in the notice. The Health Authority will recoup such costs as necessary to abate the public health nuisance as provided in § 93.26 of this chapter and M.S. § 145A.08, as it may be amended from time to time.

(F) *Vacating the public health nuisance order.* Upon Health Authority verification of proper abatement, remediation or removal at the site, the Health Authority shall issue written notice to those persons served notice under division (A) above that the public health nuisance order is vacated. Notice shall also be provided, as applicable and appropriate, to those persons provided information under division (C) above.

(Ord. 11-06, passed 11-29-2011)

§ 93.26 COSTS AND REIMBURSEMENTS.

(A) *Recovery of costs.*

(1) If the Health Authority is required to remove, abate or remediate a public health nuisance, the county may recover costs incurred in investigation, removal, abatement or remediation in a civil action or, at the discretion of the County Board of Commissioners. The cost of enforcement action under this chapter may be assessed and charged against the real property on which the public health nuisance was located, pursuant to M.S. § 145A.08, as it may be amended from time to time. The county shall extend the cost as assessed and charged on the tax roll against said real property.

(2) When the estimated cost of abatement and remediation exceeds 75% of the County Assessor's market value of the structure, the County Administrator or designee, is authorized to notify the property owner of the county's intent to remove and dispose of the affected property instead of proceeding with abatement and remediation. For motor vehicles, the county will use the Kelley Blue Book value or equivalent in determining market value.

(3) Nothing herein precludes or limits the county from seeking recovery of costs through other methods allowed by federal or state law.

(B) *Subrogation rights.* Nothing in this chapter is intended to limit the subrogation rights of any party and the owner occupants. The county shall maintain the right to recover costs, referenced in this section, from persons contributing to the damage, such as those convicted of manufacturing methamphetamine or other controlled substances.

(Ord. 11-06, passed 11-29-2011)

§ 93.27 APPEALS.

(A) *Right of appeal.* When a public health nuisance is declared, an owner and/or an occupant of the affected property may appeal the declaration, including an order for abatement or remediation from the Health Authority, by filing a written request with the Health Authority for an administrative hearing within ten calendar days of the date of service, exclusive of the day of service, of notice under §§ 93.25(A) or 93.44 of this chapter, exclusive of the day of service. In the event of an unknown or absent property owner, the appeal must be requested within ten calendar days of the day of posting of the notice under § 93.25(B) of this chapter.

(B) *Administrative hearing.* If any owner or occupant makes a written request to the Health Authority for an administrative hearing, such hearing shall be held before the Health Authority Division Manager or his or her designee.

(C) *Schedule.* The hearing shall be held no later than 15 calendar days after the date of service of the request for a hearing was received unless the appellant requests an extension of time. If an extension is requested, the hearing shall be held no later than 30 calendar days after the date of service of the request for a hearing.

(D) *Notice.* The Health Authority shall mail a notice of the time and place of the hearing at least ten calendar days prior to the hearing.

(E) *Witnesses and evidence.* All parties shall have full opportunity to respond to and present evidence and witnesses.

(F) *Standard of proof.* The appellant shall have the burden of proving its position by clear and convincing evidence.

(G) *Rules of evidence.* Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Irrelevant, immaterial and repetitious evidence shall be excluded.

(H) *Record of hearing.* The hearing shall be taped or videotaped.

(I) *Notice of decision.* The decision of the Health Authority Division Manager shall be issued within ten calendar days following the administrative hearing. Unless otherwise provided by law, the decision of the Health Authority shall constitute the final decision unless the County Board of Commissioners modifies or rejects it as provided in division (J) below.

(J) *Human Services Board review.* Each party adversely affected may submit written exceptions and arguments to the Human Services Board within ten calendar days of the service of the decision Health Authority Director. The Human Services Board shall consider the decision of the Health Authority at the next possible Board meeting and may adopt or modify the decision, reject the decision or remand for further hearing.

(K) *Further appellate rights.* Any party aggrieved by a final decision is entitled to judicial review of the decision. A petition for a writ of certiorari by the party must be filed with the Court of Appeals not more than 30 calendar days after the party receives the final decision from the County Board of Commissioners.

(Ord. 11-06, passed 11-29-2011)

CLANDESTINE LAB SITES

§ 93.40 PEACE OFFICER NOTIFICATION.

A peace officer who identifies a clandestine lab site shall notify the Health Authority of the location and of any arrests made at the site. If a child, or a vulnerable adult is present, the peace officer shall also notify the child protection unit or the adult protection unit.

(Ord. 11-06, passed 11-29-2011)

§ 93.41 HANDLING HAZARDOUS WASTES AND MATERIALS.

A peace officer or designated agent shall attempt to secure, store, transport or dispose of suspected hazardous waste and hazardous materials found at the site in a manner consistent with all applicable laws, ordinances, regulations and rules.

(Ord. 11-06, passed 11-29-2011)

§ 93.42 POSTING OF SITE.

Upon identification of a clandestine lab site, a peace officer shall post a warning sign at the entrance(s) on the property as a public health nuisance in a form approved by the Health Authority. The sign must state that no person(s) shall enter, occupy or remove any personal property from the site without authorization of the Health Authority or the law enforcement department that posted the property as a public health nuisance. Persons who enter a property without authorization or remove the sign will be in violation of this chapter.

(Ord. 11-06, passed 11-29-2011)

§ 93.43 ACTIONS TO SECURE SITE.

(A) The law enforcement department posting the property as a public health nuisance shall have the authority to secure all structures on the site that may pose a threat to public safety.

(B) These methods may include, but are not limited to:

- (1) Removing all persons occupying the site;
- (2) Overseeing the initial removal of all chemical materials in accordance with §93.41 of this chapter;
- (3) Boarding up and locking buildings;
- (4) Towing any vehicles involved to places of safe storage; and
- (5) Removing all domesticated animals from the site.

(Ord. 11-06, passed 11-29-2011)

§ 93.44 HEALTH AUTHORITY NOTICE TO OWNER OF SITE.

(A) Upon receipt of the peace officer's notice of a clandestine lab site, the Health Authority shall give written notice of the determination and orders to remediate the site to the owner, occupant and property agent, if applicable. This notice shall be served in person, by certified mail, or by an officer authorized to serve a warrant. If the owner is unknown, the Health Authority will follow the provisions of § 93.25(B) of this chapter.

(B) The notice will contain the following:

- (1) Property location by street address, property identification number or other property description;
- (2) The determination that the property constitutes a clandestine lab site and therefore a public health nuisance requiring a remediation plan;
- (3) The requirements of the remediation plan in §93.45 of this chapter;
- (4) The remediation plan must be received by the Health Authority within ten county business days following the receipt of the notice; and
- (5) The property owner, occupant or property agent must receive Health Authority approval prior to implementing the remediation plan. The notice of the action shall state the right of appeal as provided in § 93.27 of this chapter and that, unless the threat to public health is abated or removed in accordance with the terms of the notice, the Health Authority will have the public health nuisance abated or removed at the expense of the owner under the provisions of M.S. §§ 145A.08 and 152.0275, as they may be amended from time to time, this chapter or other applicable state or local law.

(Ord. 11-06, passed 11-29-2011)

§ 93.45 REMEDIATION PLAN.

(A) The written remediation plan shall be completed by a professional remediation firm on forms approved by the Health Authority.

(B) The plan shall provide information on the following activities the professional remediation firm will complete within 30 calendar days following the Health Authority's approval of the remediation plan:

- (1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
- (2) A detailed remediation schedule of activities;
- (3) A complete abatement of the site, including if appropriate the removal and destruction (to prevent salvaging) of all contaminated personal property on the site;
- (4) A complete cleanup of all property in proximity to the site that is found to have been affected by the conditions found at the site; and
- (5) Remediation testing and follow-up testing to determine that health risks are sufficiently reduced, according to the state's Department of Health's Clandestine Drug Lab General Cleanup Guidelines and best practices at the time of abatement, to allow safe human occupancy and use of the site and/or use of the personal property therein.

(Ord. 11-06, passed 11-29-2011)

§ 93.46 HEALTH AUTHORITY ABATES NUISANCE.

If the owner, occupant or agent fails or neglects to comply with the requirements of the notice provided under §93.44 of this chapter, the Health Authority shall remove or abate the nuisance as provided in § 93.25 of this chapter.

(Ord. 11-06, passed 11-29-2011)

§ 93.47 VACATING THE PUBLIC HEALTH NUISANCE ORDER.

Upon proper removal and remediation of the site, the professional remediation firm shall verify to the property owner and the Health Authority that the work was completed according to the state's Department of Health's Clandestine Drug Lab General Cleanup Guidelines and best practices. The professional remediation firm shall provide written verification to the property owner and the Health Authority within five county business days from the completion of the remediation. Following the Health Authority's review and approval of the contractor's verification, the Health Authority shall vacate the public health nuisance order.

(Ord. 11-06, passed 11-29-2011)

§ 93.48 PROPERTY DISCLOSURE.

According to the requirements set forth in M.S. § 152.0275, subd. 2, as it may be amended from time to time, and subsequent amendments, the following steps shall be taken to disclose a property's contamination status associated with a clandestine lab site to interested persons.

(A) The Health Authority shall notify the Registrar of Motor Vehicles of a vehicle's contamination associated with a clandestine lab site following the issuance of orders under § 93.44 of this chapter. The Health Authority will provide a

subsequent notice when the motor vehicle remediation is completed according to § 93.45 of this chapter.

(B) The Health Authority shall record an affidavit with the County Recorder of a property's contamination associated with a clandestine lab site following the issuance of orders under § 93.44 of this chapter. The Health Authority will record a subsequent affidavit when the property remediation is completed according to § 93.45 of this chapter.

(C) The County Recorder must record all affidavits presented under division (B) above in a manner that assures their disclosure in the ordinary course of a title search of the subject property.

(D) The Health Authority shall maintain a list, available to the public upon request, of properties receiving notices under § 93.44 of this chapter and their status under §93.45 of this chapter.

(E) Prior to signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property.

(F) Prior to signing a lease or rental agreement, the owner or owner's representative, must disclose in writing to the renter or tenant if, to the owner or owner's representative's knowledge, methamphetamine production has occurred on the property.

(Ord. 11-06, passed 11-29-2011)

§ 93.99 PENALTY.

(A) *Misdemeanor.* Any person who violates this chapter, or who permits a violation to exist on the premises under his or her control, or fails to take action to abate the existence of the violation(s) within a specified time period, when ordered or notified to do so by the Health Authority, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitutes a separate offense.

(B) *Civil remedies.* In the event of a violation or threat of violation of this chapter, the County Attorney may take appropriate action to enforce this chapter, including application for injunctive relief, action to compel performance or other appropriate action in court, if necessary, to prevent, restrain,

correct or abate such violations or threatened violations. The County Attorney enforcing provisions of this chapter may seek costs and disbursements, including staff time and attorneys' fees.

(Ord. 11-06, passed 11-29-2011)

CHAPTER 94: EXPLOSIVES

Section

- 94.01 License required
- 94.02 Licensing procedure
- 94.03 Criteria for granting license
- 94.04 Mandatory conditions
- 94.05 Additional conditions
- 94.06 Revocation of license
- 94.07 Financial responsibility
- 94.08 Explosives quantity; distance criteria
- 94.09 Non-conforming storage
- 94.10 Transfer of license prohibited
- 94.11 Expansion prohibited
- 94.12 Fee
- 94.13 Effective date

- 94.99 Penalty

§ 94.01 LICENSE REQUIRED.

No activities involving the storage, utilization or manufacture of explosives including materials or products such as TNT or dynamite, which could decompose by detonation, shall be permitted, except as are specifically licensed by the County Board of Commissioners.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.02 LICENSING PROCEDURE.

(A) **EXPLOSIVE** means any compound or mixture, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat; but shall not mean or include the components for hand-loading rifle, pistol and shotgun ammunition, and/or rifle, pistol and shotgun ammunition, black powder, primers and fuses when used for ammunition and components for antique or replica muzzle-loading rifles, pistols, muskets, shotguns and cannons, or fireworks, as defined in M.S. § 624.20, as it may be amended from time to time, nor shall it include any fertilizer product possessed, used or sold solely for a legitimate agricultural forestry, conservation or horticultural purpose.

(B) The person applying for an explosives storage license shall fill out and submit to the County Board of Commissioners an explosives storage license application form.

(C) The County Board of Commissioners 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 of Commissioners at least ten days prior to the hearing. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two miles of the property under consideration. In unincorporated areas of the county, property owners of record within one-quarter miles of the affected property or the ten 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 an explosives storage license.

(D) The petitioner or his or her representative shall appear before the County Board of Commissioners in order to answer questions concerning the proposed explosives storage license.

(E) An amended explosives storage license application shall be administered in a manner similar to that required for a new explosives license. Amended explosives storage licenses shall include requests for changes in conditions.

(F) No application for an explosives storage license shall be resubmitted for a period of six months from the date of an order of denial. Explosives storage licenses shall be valid for 12 months unless specified otherwise. Application for renewal of the explosives storage license shall be made annually to the County Board of Commissioners. The County Board of Commissioners may require a public hearing as a condition of an explosives storage license renewal. All conditions in an explosives storage license shall be commenced within six months and shall be complied with within one year unless otherwise specified.

(G) If a time limit or periodic review is included as a condition by which an explosives storage license is granted, the explosives storage license may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review.

(H) In the event that the applicant violates any of the conditions set forth in this license, the County Board of Commissioners shall have the authority to revoke the explosives storage license.

(I) A certified copy of any explosives storage license shall be filed with the County Recorder. The explosives storage license shall include the legal description of the property involved.

(Ord. 85-3, passed 2-12-1985)

§ 94.03 CRITERIA FOR GRANTING LICENSE.

(A) In granting an explosives storage license, the County Board of Commissioners shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands.

(B) Among other things, the County Board of Commissioners shall make the following findings, where applicable:

(1) The explosive storage will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity;

(2) The establishment of the explosive storage will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(3) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

(4) Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;

(5) The use is not in conflict with the policies plan of the county; and

(6) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(Ord. 85-3, passed 2-12-1985)

§ 94.04 MANDATORY CONDITIONS.

The proposed licensee shall comply with the following conditions prior to the granting of an explosives storage license by the County Board of Commissioners standards.

(A) All federal, state and local laws, statutes, rules, codes, regulations and ordinances regarding the manufacture, handling, storage and use of explosives shall be fully complied with.

(B) The proposed licensee shall provide to the County Board of Commissioners certificates from qualified federal and state authorities that the proposed facility or use fully complies with all federal, state regarding the manufacture, handling, storage and use of explosives prior to the granting of an explosives storage license by the County Board of Commissioners.

(C) Certificates required by division (B) above shall be provided to the County Board of Commissioners annually after the explosive storage license is granted.

(D) The proposed licensee shall provide the following information in addition to any other information the County Board of Commissioners shall require:

- (1) The quantity of explosives handled, used, manufactured and stored;
- (2) The type of explosives handled, used, manufactured and stored;
- (3) Distances of explosives facilities from neighboring property;
- (4) Building site plans of the explosives facility itself;
- (5) Past safety record of proposed licensee as shown in federal and state records, and local laws, regulations and ordinances;
- (6) The type and density of neighboring property use;
- (7) A certificate of the local fire chief indicating local ability to deal with any emergency at the explosives facility; and
- (8) The road conditions around the explosives facility providing access to the explosives facility and the routes to be traveled.

(E) As a condition of receiving an explosives storage license, the proposed licensee shall agree that should action be required by the county against the proposed licensee to enforce this chapter or any provisions of the explosives storage license granted to the proposed licensee, then the proposed licensee shall pay all reasonable costs associated with the enforcement action including attorneys' fees as the court may adjudge reasonable.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.05 ADDITIONAL CONDITIONS.

(A) In granting an explosives storage license or the alteration of an existing explosives storage license, the County Board of Commissioners may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the County Board of Commissioners considers necessary to protect the best interest of the surrounding area or the community as a whole.

(B) 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 of 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; and
- (8) Designating sites for open space.

(Ord. 85-3, passed 2-12-1985)

§ 94.06 REVOCATION OF LICENSE.

(A) The County Board of Commissioners may revoke the explosives storage license if any of the conditions of this chapter or the license are not complied with.

(B) The County Board of Commissioners may revoke explosives storage license if a public nuisance develops at the explosives facility from odor, fumes, dust, noise, accidental explosions, poor safety procedures or any other circumstances indicating a public nuisance.

(Ord. 85-3, passed 2-12-1985)

§ 94.07 FINANCIAL RESPONSIBILITY.

(A) As a condition of obtaining an explosives storage license, the proposed licensee shall demonstrate financial responsibility to pay claims of liability for personal injury, economic loss, response costs and natural resources damage that the proposed licensee may incur as a result of explosion or any other harm resulting from use of the explosive storage license. The amount of the operator's financial responsibility must be at least \$1,000,000.

(B) (1) The County Board of Commissioners may require a higher level of financial responsibility as a condition of an explosives storage license depending upon the size of the facility, the location of the facility, the types of explosives that will be accepted at the facility, the other factors affecting the risk of an explosion and potential liability.

(2) The proposed licensee may demonstrate financial responsibility by either an approved bond or an approved insurance policy. The licensee shall maintain financial responsibility as provided in this section during the storage of explosives or other use of the explosives storage licensee.

(Ord. 85-3, passed 2-12-1985)

§ 94.08 EXPLOSIVES QUANTITY; DISTANCE CRITERIA.

(A) No explosives may be stored unless the distance from the storage facility to the nearest inhabited building is at least 150% of the distance required by Ch. 5 of the Department of Defense Ammunition and Explosives Safety Standards, as same may be amended.

(B) No explosives storage license shall be granted if the proposed explosives storage activity will be located within 1,000 feet of any public road.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.09 NON-CONFORMING STORAGE.

(A) A non-conforming explosive storage facility existing at the time of adoption of this chapter may be continued if all federal and state laws, statutes, standards, rules, codes and regulations regarding the manufacture, handling, storage and use of explosives are fully complied with at the non-conforming explosive storage facility.

(B) A non-conforming explosive storage facility existing at the time of the adoption of this chapter may be continued; provided that, such non-conforming explosive storage facility shall not be expanded.

(C) No non-conforming explosive storage facility which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 50% of its value shall be restored, except in the conformity with the regulations of this chapter.

(D) In the event that a non-conforming explosives storage facility is discontinued or its normal operation stopped for a period of six months, the non-conforming explosives storage facility shall thereafter conform to the regulations of this chapter.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.10 TRANSFER OF LICENSE PROHIBITED.

Transfer of the explosives storage license to other firms, companies, corporations, persons or other entities is prohibited.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.11 EXPANSION PROHIBITED.

Expansion of the explosives storage facility beyond the conditions of the explosives storage license is prohibited.

(Ord. 85-3, passed 2-12-1985) Penalty, see §94.99

§ 94.12 FEE.

The County Board of Commissioners shall establish a fee for the explosives storage license by a resolution of the County Board of Commissioners.

(Ord. 85-3, passed 2-12-1985)

§ 94.13 EFFECTIVE DATE.

This chapter was in full force and effect from and after its passage and publication according to law.

(Ord. 85-3, passed 2-12-1985)

§ 94.99 PENALTY.

(A) Any person, firm, corporation or other entity violating any provision of this chapter or any provisions of an explosives storage license shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed \$1,000, or imprisonment in the county jail not to exceed 90 days, and each day that the violation continues to exist shall constitute a separate offense.

(B) In the event of a violation or a threatened violation of this chapter, a provision of an explosives storage license, or other official control adopted hereunder, the Board, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations and it is the duty of the County Attorney to institute such action.

(C) In the event that any action is instituted by the county against the explosives storage licensee to enforce this chapter or any provisions of an explosives storage license, the licensee shall pay all reasonable costs associated with the enforcement

action including attorneys' fees as the court may adjudge reasonable.

(Ord. 85-3, passed 2-12-1985)

CHAPTER 95: ZERO PHOSPHORUS

Section

- 95.01 Title
- 95.02 Statutory authority
- 95.03 Intent and purpose
- 95.04 Jurisdiction
- 95.05 Application
- 95.06 Definitions
- 95.07 Phosphorus use restrictions
- 95.08 Fertilizer use on impervious surface
- 95.09 Effective date
- 95.99 Penalty

ZERO PHOSPHORUS

§ 95.01 TITLE.

This subchapter shall be known, cited and referred to as the "Wright County Zero Phosphorus Ordinance".

(Ord. 04-01, passed 1-20-2004)

§ 95.02 STATUTORY AUTHORITY.

This subchapter is adopted pursuant to the authorization and policies contained in M.S. §§ 103B.301 through 103B.3355, as they may be amended from time to time, and M.S. §§ 18C.60 through 18C.62, as they may be amended from time to time.

(Ord. 04-01, passed 1-20-2004)

§ 95.03 INTENT AND PURPOSE.

The purpose of this subchapter is to regulate and restrict the application of turf fertilizer containing phosphorus to land in the county in order to protect the general health, safety and welfare of its citizens. The county has a wealth of surface water and ground water resources and the quality of these waters may be maintained and improved if the county is able to limit the amount of phosphorus laden turf fertilizer entering surface waters as a result of storm water runoff and other causes.

(Ord. 04-01, passed 1-20-2004)

§ 95.04 JURISDICTION.

The jurisdiction of this subchapter shall apply to all of the county, although cities and towns may choose to have their own ordinances governing these activities. Any such local ordinances must not conflict with this subchapter.

(Ord. 04-01, passed 1-20-2004)

§ 95.05 APPLICATION.

(A) In their interpretation and application, the provisions of this subchapter shall be held to be the minimum requirements for the protection of the public health, safety and welfare.

(B) Where the conditions imposed by any provision of this subchapter 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 impose higher standards shall prevail.

(Ord. 04-01, passed 1-20-2004)

§ 95.06 DEFINITIONS.

(A) The word "shall" is mandatory, and not discretionary; the word "may" is permissive; the word "person" shall include, but not be limited to, individuals, businesses and corporations.

(B) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.

(C) Words shall be given their common usage if not defined.

(D) The masculine gender shall include the feminine and the neuter and vice-versa.

(E) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **BOARD.** Includes the **COUNTY COMMISSIONERS**, the **BOARD OF COUNTY COMMISSIONERS** or any other word or words meaning the Wright County Board of Commissioners.

(2) **TURF.** Non-crop land planted in closely mowed, managed grasses including, but not limited to, residential and multi-family residential property, commercial and industrial property, private golf courses and property owned by federal, state or local units of government, including parks, recreation areas and public golf courses. **TURF** does not mean pasture, hayland, hay, turf grown on turf farms or any other form of agricultural production.

(Ord. 04-01, passed 1-20-2004)

§ 95.07 PHOSPHORUS USE RESTRICTIONS.

(A) A person may not apply a fertilizer containing the plant nutrient phosphorus to turf in the county, except under conditions listed in division (B) below.

(B) Division (A) above does not apply when:

(1) A tissue, soil, or other test by a laboratory or method approved by the state's Department of Agriculture and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;

(2) The property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season; or

(3) The fertilizer containing the plant food phosphorus is used on a golf course under the direction of a person licensed, certified or approved by an organization with an on-going training program approved by the state's Department of Agriculture.

(C) Applications of phosphorous fertilizer authorized under division (B) above must not exceed rates recommended by the University of Minnesota and approved by the state's Department of Agriculture.

(Ord. 04-01, passed 1-20-2004)

§ 95.08 FERTILIZER USE ON IMPERVIOUS SURFACE.

A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container. For the purposes of this section, **IMPERVIOUS SURFACE** means a highway, street, sidewalk, parking lot, driveway or other material that prevents infiltration of water into the soil.

(Ord. 04-01, passed 1-20-2004)

§ 95.09 EFFECTIVE DATE.

This subchapter was in full force and effect on 8-1-2004.

(Ord. 04-01, passed 1-20-2004)

§ 95.99 PENALTY.

(A) Violation of any provision of this chapter is a petty misdemeanor.

(B) In the event of a violation of this chapter, the County Board of Commissioners 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 actions may be recovered by the county in a civil action in any court of competent jurisdiction. These remedies may be imposed upon a person in addition to or separate from enforcement actions under division (A) above.

(Ord. 04-01, passed 1-20-2004)

CHAPTER 96: BUFFER REGULATIONS

Section

96.01 Statutory authorization and policy

96.02 Definitions and general provisions

96.03 Jurisdiction

96.04 Buffer requirements

96.05 Compliance determinations

96.99 Enforcement

§ 96.01 STATUTORY AUTHORIZATION AND POLICY.

(A) *Statutory authorization.* This buffer ordinance is adopted pursuant to the authorization and policies contained in M.S. § 103F.48, the buffer law, and the county planning and zoning enabling legislation in M.S. Ch. 394.

(B) *Purpose and intent.* It is the purpose and intent of the county to:

(1) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:

- (a) Protect state water resources from erosion and runoff pollution;
- (b) Stabilize soils, shores and banks; and
- (c) Protect or provide riparian corridors;

(2) Coordinate the implementation and enforcement of the water resources riparian protection requirements of M.S. § 103F.48 with the shoreland management rules and ordinances adopted under the authority of M.S. §§ 103F.201 to 103F.227 and the management of public drainage systems established under M.S. Ch. 103E where applicable; and

(3) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

(Ord. 18-3, passed 6-5-2018)

§ 96.02 DEFINITIONS AND GENERAL PROVISIONS.

(A) *Definitions.* Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the same meaning they have in common usage and to give this chapter its most reasonable application. For the purpose of this chapter, the words **MUST** and **SHALL** are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

(1) **APO.** The administrative penalty order issued pursuant to M.S. § 103F.48, subd. 7 and M.S. § 103B.101, subd. 12a.

(2) **BUFFER.** Has the meaning provided in M.S. § 103F.48, subd. 1(c).

(3) **BUFFER PROTECTION MAP.** Has the meaning provided in M.S. § 103F.48, subd. 1(d) and which are available on the Department of Natural Resources website.

(4) **BWSR.** The Board of Water and Soil Resources.

(5) **CULTIVATION FARMING.** Farming practices that disturb root or soil structure or that impair the viability of perennial vegetation due to cutting or harvesting near the soil surface.

(6) **DRAINAGE AUTHORITY.** Has the meaning provided in M.S. § 103E.005, subd. 9.

(7) **LANDOWNER.** The holder of the fee title, the holder's agents or assigns, any lessee, licensee, or operator of the real property and includes all land occupiers as defined by M.S. § 103F.401, subd. 7 or any other party conducting farming activities on or exercising control over the real property.

(8) **LOCAL WATER MANAGEMENT AUTHORITY.** Has the meaning provided in M.S. § 103F.48, subd. 1(g).

(9) **NORMAL WATER LEVEL.** The level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

(10) **PARCEL.** A unit of real property that has been given a tax identification number maintained by the county.

(11) **PUBLIC DRAINAGE SYSTEM.** Has the meaning given to **DRAINAGE SYSTEM** in M.S. § 103E.005, subd. 12.

(12) **SWCD.** Soil and Water Conservation District.

(B) *Severability.* If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

(C) *Data sharing/management.*

(1) The county may enter into arrangements with an SWCD, a watershed district if applicable, BWSR and other parties with respect to the creation and maintenance of, and access to, data concerning buffers and alternative practices under this chapter.

(2) The county will manage all such data in accordance with the Minnesota Data Practices Act and any other applicable laws.

(Ord. 18-3, passed 6-5-2018)

§ 96.03 JURISDICTION.

The provisions of this chapter apply to all waters, shown on the buffer protection map, excluding public drainage systems for which the county is not the drainage authority under M.S. Chapter 103E.

(Ord. 18-3, passed 6-5-2018)

§ 96.04 BUFFER REQUIREMENTS.

(A) *Buffer width.* Except as provided in divisions (D) and (E), a landowner owning property adjacent to a water body identified on the buffer protection map must establish and maintain a buffer area as follows:

(1) For waters shown on the buffer protection map requiring a 50 foot width buffer, the buffer width will be 50 foot average and 30 foot minimum width as provided in M.S. § 103F.48, subd. 3 and as measured according to division (B); and

(2) For waters shown on the buffer protection map requiring a 16.5 foot minimum width buffer, the buffer width will be 16.5 feet as provided in M.S. § 103F.48, subd. 3 and as measured according to division (B). This section applies only if the county is the drainage authority.

(B) *Measurement.*

(1) The width of any required buffer on land adjacent to a water requiring a 50 foot average width and a 30 foot minimum width buffer shall be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level as provided in M.S. § 103F.48, subd. 3(c).

(2) The width of any required buffer on land adjacent to a water requiring a 16.5 foot minimum width buffer shall be measured in the same manner as for measuring the vegetated grass strip under M.S. § 103E.021, subd. 1 as provided in M.S. § 103F.48, subd. 3(c).

(C) *Use of buffer area.* Except as provided in divisions (D) and (E) a buffer as defined in this ordinance may not be put to any use, included but not limited to cultivation farming, which would remove or prevent the permanent growth of perennial vegetation.

(D) *Exemptions.* The requirement of division (A) does not apply to land that is exempted from the water resources riparian protection requirements under M.S. § 103F.48, subd. 5.

(E) *Non-conformity.* Where the provisions of any statute, other ordinance or regulation imposes greater restrictions than this chapter, the provisions of such shall be controlling. The continuation of non-conformities provided for by M.S. §§ 394 and 462 shall not apply to compliance with this chapter and M.S. § 103F.48.

(F) *Alternative practices.* As provided in M.S. § 103F.48, subd. 3(b) an owner of land that is used for cultivation farming may demonstrate compliance with § 96.04(A) by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s) which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in § 96.04(A) to (C). The adequacy of any alternative practice allowed under this section shall be based on:

(1) The Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG):

(2) Common alternative practices adopted and published by BWSR;

(3) Practices based on local conditions approved by the SWCD that are consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG); or

(4) Other practices adopted by BWSR.

(Ord. 18-3, passed 6-5-2018)

§ 96.05 COMPLIANCE DETERMINATIONS.

(A) *Compliance determinations.* Compliance with the buffer requirements set forth in §96.04 will be determined by the SWCD on a parcel by parcel basis. The compliance status of each bank, or edge of a waterbody on an individual parcel will be determined independently.

(B) *Investigation and notification of non-compliance.* When the county identifies a potential noncompliance with the buffer requirements or receives a third party complaint from a private individual or entity, or from another public agency, it may consult with the SWCD to determine the appropriate course of action to document compliance status. This may include communication with the landowner, inspection or other appropriate steps necessary to verify the compliance status of the parcel. On the basis of the evidence gathered in this process, the SWCD may issue a notification of noncompliance to the county. If the SWCD does not issue such a notification, the county will not pursue a compliance or enforcement action under M.S. § 103F.48 and § 96.99(B).

(1) At any time during the process set forth in division (B) and (C), the landowner may provide documentation of compliance to the SWCD.

(2) *Compliance determination.* The SWCD may evaluate the available documentation, and/or evaluate and/or inspect the buffer and/or alternative practices to determine if the parcel is in compliance. Upon completion of the evaluation and/or inspection the SWCD shall issue a written compliance determination to the landowner, the county and BWSR. The SWCD

may also issue a validation of compliance if applicable and requested by the landowner.

(C) *Corrective action notice.*

(1) On receipt of an SWCD notification of noncompliance, the county will issue the landowner a corrective action notice that will:

- (a) Include a list of corrective actions needed to come into compliance with the requirements of M.S. § 103F.48;
- (b) Provide a timeline for complying with the corrective action notice;
- (c) Provide a compliance standard against which the county will judge the corrective action; and
- (d) Include a statement that failure to respond to this notice may result in the assessment of criminal, civil or administrative penalties.

(2) The county may send the landowner a combined corrective action notice and APO as provided in §96.99(B) so long as the combined notice/APQ includes all the required elements of both.

(3) The county shall transmit the corrective action notice by either personal service to the landowner or by depositing the same in the U.S. Mail. If service is made by U.S. mail, the document is deemed received three business days after the notice was placed in the U.S. mail. Failure of actual receipt of a corrective action notice that has either been personally served or served by depositing the same in the U.S. Mail shall not be deemed a defense in an enforcement proceeding under § 96.99. The county shall also send a copy of the notice to the SWCD and BWSR.

(4) Counties may modify the corrective actions and timeline for compliance, in accordance with division (B), to extend the compliance timeline for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

(D) At any time after receipt of a corrective action notice, the landowner may provide documentation of compliance to the county. In addition, the landowner may supply information to the county or the SWCD in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, the county may make a written modification to the corrective action notice or timeline for compliance. The county should also make a written determination documenting whether the non-compliance has been fully corrected. Any such modification of a compliance determination will be served on the landowner in the manner provided for in § 96.05(C). The county shall provide the SWCD and BWSR a written copy of any modification made pursuant to this provision.

(E) The SWCD may, after an evaluation of the evidence documenting compliance submitted by the landowner, issue a written validation of compliance if requested by the landowner. Upon receipt by the County of a written compliance determination issued by the SWCD, the corrective action notice will be deemed withdrawn for the purpose of § 96.99, and the subject property will not be subject to enforcement under that section.

(Ord. 18-3, passed 6-5-2018)

§ 96.99 ENFORCEMENT.

(A) Failure to comply with a corrective action notice issued under §96.05. The county may, at its own discretion, elect to pursue the failure to comply with a corrective action notice either criminally or through an administrative penalty order as set forth herein.

(1) Failure to comply with a corrective action notice issued under §96.05 constitutes a misdemeanor and shall be punishable as defined by law.

(2) The county may issue an APO as provided for in M.S. §§ 103F.48, subd. 7(b) and (c) and 103B.101, subd. 12a to a landowner who has failed to take the corrective action set forth in the corrective action notice. For the APO to be effective it must be served on the landowner together with a copy of the corrective action notice or alternatively the county may serve the landowner with a combined corrective action notice and APO so long as the combined notice/APQ includes all the elements of both. Service is effective either by personal service or by depositing the documents set forth herein in the U.S. Mail. Any penalty assessed in the APO shall continue to accrue until the violation is corrected as provided in the corrective action notice and APO.

(B) *Administrative penalty order (APO).*

(1) *Initial violation.* The penalty for a landowner on a single parcel that has not previously been the subject of an APO issued by the county shall be:

- (a) \$0 for 11 months after issuance of the corrective action notice;
- (b) \$50 per parcel per month for the first six months (180 days) following the time period in division (a); and
- (c) \$200 per parcel per month after six months (180 days) following the time period in division (b).

(2) *Repeat violation.* The penalty for a landowner on a single parcel that has previously been the subject of an APO issued by the county shall be:

- (a) \$50 per parcel per day for 180 days after issuance of the corrective action notice; and
- (b) \$200 per parcel per day for after 180 days following the time period in division (a).

(3) *Ongoing penalty assessment.* Any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

(4) *APO.* To be valid the APO shall include, at a minimum:

(a) The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this division (4) of this section or M.S. §103F.48:

(b) The specific statute and/or ordinance section(s) that has/have been violated;

(c) A written description of prior efforts to work with the landowner to resolve the violation;

(d) The amount of the penalty to be imposed;

(e) The date the penalty will begin to accrue;

(f) The date that payment of the penalty is due;

(g) The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the corrective action notice; and

(h) A statement of the landowner's right to appeal the APO.

(5) All or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the landowner as provided in M.S. § 103F.48, subd. 7(d).

(6) A copy of the APO must be sent to the SWCD and BWSR.

(7) An APO issued under this section may be appealed to the BWSR within 30 days of receipt by the landowner in accordance with the requirements set for the in M.S. § 103F.48, subd. 9. Any APO that is not appealed within the 30 day period shall be deemed final.

(C) *Administrative penalty order procedures.*

(1) *Statute of limitations.* According to M.S. § 541.07, the county has two years in which to commence an APO action after the date the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the landowner involved.

(2) *Compliance verification.*

(a) Once a landowner has submitted written evidence of correction of the violation set forth in the notice of compliance, compliance must be verified. The county will:

1. Review and evaluate all information related to the APO to determine if the violation has been corrected;

2. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and

3. Document compliance verification.

(b) The county may consult with the SWCD when conducting a compliance verification.

(3) *Right to appeal.* Within 30 days after receipt of the APO, a landowner may appeal the terms and conditions of an APO issued by a county to BWSR as provided in M.S. § 103F.48, subd. 9. The appeal must be in writing and must include a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the Executive Director of BWSR.

(4) *Penalty due.*

(a) Unless the landowner appeals the APO as provided in division (C)(3) the penalty specified in the APO becomes immediately due and payable to the county as set forth in the APO. If, however, the landowner submits written documentation that the violations has been corrected prior to the time the penalty becomes due and payable the county shall verify compliance and adjust the penalty to an amount the landowner would have owed had the penalty been paid on the date the landowner submitted written documentation of compliance. Written documentation of compliance may include a written validation of compliance issued by the SWCD.

(b) However, if the County determines the violation was not fully corrected, the County shall notify the landowner by issuing a written letter of determination and depositing it in the U.S. Mail. Any determination sent by U.S. Mail shall be deemed received three business days after the letter of

determination has been deposited in the U.S. Mail. The landowner shall have an additional 20 days after receipt of the letter of determination to pay the penalty or the time period specified in the APO as issued, whichever is later. The penalty will continue to accrue until the violation is corrected as provided in the corrective action notice and APO.

(5) *Referral for collection of penalty.* All penalties and interest assessed under an APO must be paid by the landowner within the time specified in this section. All payments shall be made payable to the county. Any penalty or interest not received in the specified time may be collected by the county using any lawful means.

(6) *Reporting and documentation.* The county shall maintain the following records for any potential violation of the riparian protection and water quality practices requirements. Said records shall include but are not limited to the following:

- (a) The cause of the violation;
- (b) The magnitude and duration of the violation;
- (c) Documentation showing whether the violation presents an actual or imminent risk to public health and safety;
- (d) Documentation showing whether the violation has the potential to harm to the natural resources of the state;
- (e) A record of past violations;
- (f) Efforts by the SWCD, County, Watershed District or BWSR to assist the responsible party or parties to become compliant, including written and oral communications with the responsible party or parties ; and
- (g) Past and present corrective action efforts by the responsible party or parties.

(Ord. 18-3, passed 6-5-2018)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. TOBACCO REGULATIONS

CHAPTER 110: TOBACCO REGULATIONS

Section

General Provisions

- 110.001 Authority
- 110.002 Purpose
- 110.003 Definitions and interpretations
- 110.004 Prohibited sales
- 110.005 Vending machines
- 110.006 Self-service sales
- 110.007 Responsibility
- 110.008 Compliance checks and inspections
- 110.009 Applicability
- 110.010 Conformity with other laws
- 110.011 Effective date

Licensing Provisions

- 110.025 License required
- 110.026 Application
- 110.027 Action
- 110.028 Term
- 110.029 Revocation or suspension
- 110.030 Location; transfers
- 110.031 Moveable place of business
- 110.032 Display
- 110.033 Renewals
- 110.034 Fees
- 110.035 Basis for denial of license

Illegal Acts

- 110.050 Generally
- 110.051 Illegal sales and occupancy
- 110.052 Illegal possession
- 110.053 Illegal use
- 110.054 Illegal procurement
- 110.055 False identification

Violations

- 110.070 Notice
- 110.071 Hearings
- 110.072 Hearing panel
- 110.073 Decision
- 110.074 Appeals

- 110.999 Penalty

GENERAL PROVISIONS

§ 110.001 AUTHORITY.

This chapter is adopted under the authority and pursuant to the mandate of M.S. § 461.12, as it may be amended from time to time, pertaining to municipal tobacco licenses.

(Ord. 13-02, passed 10-8-2013)

§ 110.002 PURPOSE.

This chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, tobacco-related devices and electronic delivery devices for the purpose of enforcing existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices and electronic delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 13-02, passed 10-8-2013)

§ 110.003 DEFINITIONS AND INTERPRETATIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term **SHALL** means mandatory and the term **MAY** means permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **COMPLIANCE CHECKS.** The system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices are following and complying with the requirements of state law through this chapter. **COMPLIANCE CHECKS** shall involve the use of minors or persons under the age of 21 as by authorized state law through this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors or persons under the age of 21 who attempt to purchase tobacco, tobacco products, tobacco-related devices and electronic delivery devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices and electronic delivery devices.

(B) **ELECTRONIC DELIVERY DEVICE.** Any product containing or delivering nicotine, lobelia or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. **ELECTRONIC DELIVERY DEVICE** includes, but is not limited to, devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipes, vape pens, modes, tank systems, or under any other product name or descriptor. **ELECTRONIC DELIVERY DEVICE** includes any component part of a product, whether or not sold separately. **ELECTRONIC DELIVERY DEVICE** excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(C) **INDIVIDUALLY PACKAGED.**

(1) The practice of selling any tobacco or tobacco product wrapped individually for sale **INDIVIDUALLY WRAPPED** tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging or snuff or chewing tobacco.

(2) Cartons or other packaging containing more than a single pack or other container as described herein shall not be considered **INDIVIDUALLY PACKAGED**.

(D) **LICENSED PRODUCTS**. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

(E) **LOCATION**. The building, room, rooms or other compact space or area where tobacco is sold at retail, as specified in the tobacco license application.

(F) **LOOSIES**. The common term used to refer to single or individually packaged cigars or cigarettes, or any other licensed product that has been removed from its intended retail packaging and offered for sale. **LOOSIES** does not include individual cigars with a retail price, after any discounts are applied and before any sales taxes are imposed, of at least \$2.50 per cigar.

(G) **MINOR**. Any natural person who has not yet reached the age of 18 years.

(H) **MOVEABLE PLACE OF BUSINESS**. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

(I) **RETAIL ESTABLISHMENT**. Any place of business where tobacco, tobacco products, tobacco-related devices and electronic delivery devices are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores and restaurants.

(J) **SALE**. Any transfer of goods for money, trade, barter or other consideration.

(K) **SELF-SERVICE**. Open displays of tobacco, tobacco products, tobacco-related devices and electronic delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices and electronic delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco products, tobacco-related devices and electronic delivery devices between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

(L) **TOBACCO** or **TOBACCO PRODUCTS**. Cigarettes and any product containing, made, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, blunts; cigars; cheroots; stogies; perigue; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco. **TOBACCO** excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(M) **TOBACCO-RELATED DEVICES**. Any tobacco product as well as pipe, electronic delivery device, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco product. **TOBACCO-RELATED DEVICES** includes components of tobacco-related devices that may be marketed or sold separately.

(N) **TOBACCO PRODUCTS SHOP**. A retail establishment with an entrance door opening directly to the outside, or into a common building area, that derives at least 25% of its gross revenue from the sale of tobacco products, tobacco-related devices, loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories. **TOBACCO PRODUCTS SHOP** does not include a tobacco department or section of any individual business establishment with any type of food, restaurant, or on-sale liquor license, provided the sale of tobacco or tobacco products does not exceed 25% of gross revenue.

(O) **VENDING MACHINE**. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco-related devices and electronic delivery devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, tobacco-related devices and electronic delivery devices.

(P) **YOUTH-ORIENTED FACILITY**. Any facility with residents, customers, visitors, or inhabitants of which 25% or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. **YOUTH-ORIENTED FACILITY** includes, but is not limited to, childcare providers and facilities, schools, playgrounds, recreation centers, and parks.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021)

§ 110.004 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco products, tobacco-related devices and electronic delivery devices:

- (A) To any person under the age of 21 years;
- (B) By means of any type of vending machine, except as may otherwise be provided in this chapter;
- (C) By means of self-service methods unless allowed under §110.006(B) of this chapter;
- (D) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law,

ordinance provision or other regulation; or

(E) By means of loosies as defined.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019) Penalty, see §110.999

§ 110.005 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products or tobacco-related devices by the means of a vending machine unless persons under the age of 21 are at all times prohibited from entering the licensed establishment.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019) Penalty, see §110.999

§ 110.006 SELF-SERVICE SALES.

(A) No licensee shall offer for sale individually packaged tobacco or tobacco products in open displays which are accessible to the public without the intervention of a store employee.

(B) Cartons and other multi-pack units may be offered and sold through open displays accessible to the public.

(C) Division (B) above will expire upon the effective date and implementation of 21 C.F.R. § 897.16(c).

(D) The self-service restrictions described in this section shall not apply to retail establishments which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 21 years of age.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019) Penalty, see §110.999

§ 110.007 RESPONSIBILITY.

(A) All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco-related devices and electronic delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.

(B) All licensees are responsible for ensuring proper training of employees. Upon request, the local public health authority may provide training resources.

(C) All licensees are responsible for paying any administrative penalties imposed upon them through the action of any employee, and are prohibited from making any employee reimburse or pay any administrative penalty imposed, whether directly or through payroll deduction.

(D) Nothing in this section shall be construed as prohibiting the county from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. 13-02, passed 10-8-2013; Ord. 21-4, passed 11-30-2021)

§ 110.008 COMPLIANCE CHECKS AND INSPECTIONS.

(A) All licensed premises shall be open to inspection by an authorized county official during regular business hours. From time to time, but at least once per year, the county shall conduct compliance checks that involve the participation of persons over the age of 18 years but less than 21 years. The county may conduct educational compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years, but less than 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices and electronic delivery devices. Persons used for the purpose of compliance checks shall be trained and supervised by designated county personnel. Persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, tobacco-related devices and electronic delivery devices when such items are obtained or attempted to be obtained as part of the compliance check. No persons used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or their employee and shall produce any identification, if any exists, for which they are asked.

(B) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021)

§ 110.009 APPLICABILITY.

(A) This chapter applies to all locations in the county where tobacco, tobacco products, tobacco-related devices or electronic delivery devices are sold.

(B) It is further provided, however, that in any city or township which elects to license and regulate the retail sale of tobacco, pursuant to M.S. § 461.12, subd. 1, as it may be amended from time to time, those locations within such city or township shall be exempt from the coverage of this chapter.

(Ord. 13-02, passed 10-8-2013)

§ 110.010 CONFORMITY WITH OTHER LAWS.

(A) The remedies and administrative penalties listed in this chapter are not exclusive and are in addition to any other remedies provided by law.

(B) This chapter specifically does not preclude criminal prosecution under the laws of the state relating to the use, possession or sale of tobacco.

(Ord. 13-02, passed 10-8-2013)

§ 110.011 EFFECTIVE DATE.

This chapter took effect on 6-1-1998.

(Ord. 13-02, passed 10-8-2013)

LICENSING PROVISIONS

§ 110.025 LICENSE REQUIRED.

No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related devices and electronic delivery devices without first having obtained a license to do so from the county, unless located within a town or a home rule charter or statutory city that has retained licensing authority under M.S. § 461.12, subd. 1, as it may be amended from time to time.

(Ord. 13-02, passed 10-8-2013) Penalty, see §110.999

§ 110.026 APPLICATION.

(A) An application for a license to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices shall be made on a form provided by the County Finance Department, and shall contain the following:

(1) The full name of the applicant, the applicant's business addresses and telephone numbers, the name of the business for which the license is sought, whether the license is for a tobacco products shop, and the location for which the license is sought; and

(2) The applicant on a new license shall state the percentage of estimated gross revenue to be derived from the sale of tobacco and tobacco-related products on their application; and

(3) The applicant for a renewal license shall state the actual percentage of gross revenue from the sale of tobacco and tobacco-related products on their application: and

(4) As part of any application, the Finance Director may require an original signed letter from a certified public accountant, stating the percentage of gross revenue derived from the sale of tobacco and tobacco-related products, prior to issuing a license to a person or business located within 1,000 feet of a youth-oriented facility, or from any applicant suspected of being a tobacco products shop. Any letter from a certified public accountant must be based upon an actual review of the financial records for the licensee from the 12 months prior to making application, and shall state the dates and sources of the financial records reviewed; and

(5) Retail sales of tobacco at more than one location, even upon the same real property or under common ownership, shall require multiple licenses; and

(6) Any retail establishment located within 1,000 feet of a youth-oriented facility must provide financial records documenting its annual sales, upon request by the county or as required in § 110.035; and

(7) Any additional information the Finance Director deems necessary.

(B) Upon receipt of a completed application and payment of a fee pursuant to §110.034 of this chapter, the Finance Director shall forward the application to the County Board of Commissioners for action at its next regularly scheduled Board meeting. If the Finance Director shall determine that an application is incomplete, the application shall be returned with notice of the information necessary to make the application complete.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021)

§ 110.027 ACTION.

(A) The County Board of Commissioners may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

(B) (1) If the County Board of Commissioners shall approve the license, the Finance Director shall issue the license to the applicant.

(2) If the County Board of Commissioners denies the license, the notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

(Ord. 13-02, passed 10-8-2013; Ord. 21-4, passed 11-30-2021)

§ 110.028 TERM.

Generally, licenses issued under this chapter shall be valid for one calendar year from the date of issue beginning January 1. Licenses may be issued and granted under this chapter for a fractional year thereof upon their expiration under another licensing authority, or in the case of a new license application. Seasonal businesses may apply for a license for the period of time they will be doing business. A license issued for a period of less than one calendar year shall expire on December 31 of that year, or such date as is stated on the license.

(Ord. 13-02, passed 10-8-2013; Ord. 17-2, passed 11-14-2017)

§ 110.029 REVOCATION OR SUSPENSION.

Any license issued under this chapter may be revoked or suspended as provided in §§110.070 through 110.074 and 110.999 of this chapter.

(Ord. 13-02, passed 10-8-2013)

§ 110.030 LOCATION; TRANSFERS.

All licenses under this chapter shall be valid only at the location for which the license was issued and only for the person to who the license was issued. No transfer of any license to another location or personal shall be valid without the prior approval of the County Board of Commissioners.

(Ord. 13-02, passed 10-8-2013)

§ 110.031 MOVEABLE PLACE OF BUSINESS.

No license shall be issued to a moveable place of business. Only fixed retail establishments shall be eligible to be licensed under this chapter.

(Ord. 13-02, passed 10-8-2013)

§ 110.032 DISPLAY.

(A) *Licenses.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(B) *Signage.* Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which may be provided to the licensee by the County Health and Human Services upon request, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(Ord. 13-02, passed 10-8-2013; Ord. 21-4, passed 11-30-2021)

§ 110.033 RENEWALS.

The renewal of a license issued under this section shall be handled in the same manner as the original application. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Ord. 13-02, passed 10-8-2013; Ord. 17-2, passed 11-14-2017)

§ 110.034 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established by resolution of the County Board of Commissioners. License fees shall be prorated for those licenses issued for less than a full calendar year. License fees shall be doubled in instances where there is a failure to obtain a license prior to commencing retail sales of tobacco.

(Ord. 13-02, passed 10-8-2013; Ord. 17-2, passed 11-14-2017)

§ 110.035 BASIS FOR DENIAL OF LICENSE.

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the county must deny the license. If a license is mistakenly issued or renewed to a person, it may be revoked upon the discovery that the person was ineligible for the license under this section.

(B) Grounds for denial are:

- (1) The applicant is under the age of 21 years;
- (2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco, tobacco products, tobacco-related devices and electronic delivery devices;
- (3) The applicant has had a license to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices revoked within the preceding 12 months of the date of application;
- (4) The applicant fails to provide any information required on the application or provides false or misleading information;
- (5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding such a

license;

(6) The applicant has failed to pay on a timely basis any administrative fine levied by the county under §110.999 of this chapter; or

(7) *Youth-oriented facilities.*

(a) No license shall be issued to a tobacco products shop that is located within 1,000 feet of a youth-oriented facility.

(b) No license shall be issued to a business within 1,000 feet of a youth-oriented facility, unless the business has been in operation for at least two years, and provides financial reports for the prior two years that describe the nature of its business and itemize the products it sells. A business seeking a renewal under this provision shall provide the most recent financial records for the business from the prior year.

(c) No license shall be issued in the event an applicant fails to provide the Finance Director with a letter from a certified public accountant as provided in § 110.026.

(d) The restriction contained in division (B)(7)(a) and (b) of this section does not apply to an individual business establishment with any type of food, restaurant, fuels distributor, or on-sale liquor license that has a tobacco section or department, provided the sales of tobacco and tobacco-related products do not exceed 25% of gross revenue, or any businesses with an existing license holder who has been licensed to sell licensed products in the same location since October 1,2018.

(e) Calculating the 1,000-foot distance from a youth-oriented facility, as provided in this section, shall be measured by the shortest line from the property lot line of the space to be occupied by the proposed licensee to the nearest property lot line of a youth-oriented facility.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021)

ILLEGAL ACTS

§ 110.050 GENERALLY.

Unless otherwise provided, the following acts in this subchapter shall be a violation of this chapter.

(Ord. 13-02, passed 10-8-2013)

§ 110.051 ILLEGAL SALES AND OCCUPANCY.

(A) It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco products, tobacco-related device and electronic delivery device to any person under the age of 21.

(B) No operator or employee of a tobacco products shop shall allow, permit, or suffer any person younger than 21 years of age, to enter or be present upon the licensed premises. It shall be the duty of the operator and operator's employees to identify and ascertain the age of any such person and to refuse admittance to any person not of age.

(Ord. 13-02, passed 10-8-2013; Ord 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021) Penalty, see §110.999

§ 110.052 ILLEGAL POSSESSION.

It shall be a violation of this chapter for any person under the age of 21 to have in his or her possession any tobacco, tobacco products, tobacco-related devices and electronic delivery devices. This section shall not apply to persons under the age of 21 lawfully involved in a compliance check.

(Ord. 13-02, passed 10-8-2013; Ord. 21-4, passed 11-30-2021) Penalty, see §110.999

§ 110.053 ILLEGAL USE.

It shall be a violation of this chapter for any person under the age of 21 to smoke, chew, sniff or otherwise use any tobacco, tobacco products, tobacco-related device and electronic delivery device.

(Ord. 13-02, passed 10-8-2013; Ord. 21-4, passed 11-30-2021) Penalty, see §110.999

§ 110.054 ILLEGAL PROCUREMENT.

It shall be a violation of this chapter for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, tobacco-related device and electronic delivery device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain for use any tobacco, tobacco products, tobacco-related device and electronic delivery device. This section shall not apply to persons under the age of 21 lawfully involved in a compliance check.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021) Penalty, see §110.999

§ 110.055 FALSE IDENTIFICATION.

It shall be a violation of this chapter for any person under the age of 21 to attempt to disguise their true age by the use of a

false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 13-02, passed 10-8-2013; Ord. 19-5, passed 9-24-2019) Penalty, see §110.999

VIOLATIONS

§ 110.070 NOTICE.

Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(Ord. 13-02, passed 10-8-2013)

§ 110.071 HEARINGS.

If a person accused of violating this chapter so requests, in writing, within 30 days of the date the citation in §10.070 of this chapter was mailed, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(Ord. 13-02, passed 10-8-2013)

§ 110.072 HEARING PANEL.

The County of Commissioners may appoint a hearing officer to handle any requested hearings under this subchapter.

(Ord. 13-02, passed 10-8-2013)

§ 110.073 DECISION.

If the County Board of Commissioners determines that a violation of this chapter did occur, that decision, along with the Board's reasons for finding a violation and the penalty to be imposed under § 110.999 of this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the County Board of Commissioners finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded in writing a copy of which shall be provided to the accused violator.

(Ord. 13-02, passed 10-8-2013)

§ 110.074 APPEALS.

Appeals of any decision of the County Board of Commissioners under this chapter shall be filed in the District Court for the county.

(Ord. 13-02, passed 10-8-2013)

§ 110.999 PENALTY.

(A) *Licensees.* Any licensee found to have violated this chapter, or whose employees shall have violated this chapter, shall be charged an administrative fine of not less than \$400 for a first violation of this chapter; not less than \$800 for a second offense at the same licensed premises within a 36-month period; and not less than \$1,000 for a third or subsequent offense at the same location within a 36-month period. In addition, with a fourth or subsequent offense within a 36-month period, the Finance Director shall suspend the license for not less than 30 days, and shall charge the licensee an administrative fine of not less than \$2,000. Any violation of federal, state or local tobacco control laws or regulations may also subject the licensee to suspension or revocation of their tobacco license.

(B) *Other individuals.* Other individuals, other than minors regulated by division (C) below, found to be in violation of this chapter may be charged an administrative fine not to exceed \$100 for a first violation of this chapter, and not to exceed \$250 for a second offense, within a 36-month period.

(C) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco-related devices or electronic delivery devices may be charged an administrative fine of at least \$65 or shall be required to attend a tobacco-related education class, diversion program, community service, or another penalty that the county determines to be appropriate. The cost of such program shall be the responsibility of the minor attending the program.

(D) *Payment of fines.* Any administrative fines levied by the county pursuant to this section shall be paid within 30 days of the date of mailing for the citation or the hearing findings issued under §§ 110.070 through 110.074 of this chapter.

(E) *Persons under the age of 21.* Persons under the age of 21 who use false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the county determines to be appropriate.

(F) *Continuing violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(G) *Statutory penalties.* If the administrative penalty authorized to be imposed by Minn. Stat. § 461.12 as it may be amended from time to time, differ from that established in this section, then the higher penalty will prevail.

(H) *Unlawful administrative penalty reimbursement.* It shall be unlawful for any licensee to make an employee reimburse or pay any administrative fine imposed under division (A) herein, whether directly or through payroll deduction. Any licensee found to have violated this provision shall be subject to misdemeanor prosecution and an administrative fine. Nothing in this section shall prevent an employee from seeking reimbursement or a civil action for the unlawful withholding of wages or compensation under the state law.

(I) *Misdemeanor.* Nothing in this section shall prohibit the county from seeking prosecution of any violation of this chapter as a misdemeanor.

(Ord. 13-02, passed 10-8-2013; Ord. 17-2, passed 11-14-2017; Ord. 19-5, passed 9-24-2019; Ord. 21-4, passed 11-30-2021)

TITLE XIII: GENERAL OFFENSES

Chapter

130. SOCIAL HOSTS; RESPONSIBILITIES

131. WATER SURFACE USE

CHAPTER 130: SOCIAL HOSTS; RESPONSIBILITIES

Section

130.01 Title and authority

130.02 Purpose and findings

130.03 Definitions

130.04 Jurisdiction

130.05 Prohibited acts

130.06 Exceptions

130.07 Enforcement

130.08 Effective date

130.99 Penalty

§ 130.01 TITLE AND AUTHORITY.

The County Board of Commissioners desires to protect the health, safety and welfare of all persons living in and visiting the county. The use of alcohol by persons under the age of 21 is prohibited by state statute. This chapter prohibits and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under 21 years of age. This chapter is enacted pursuant to M.S. § 145A.05, subd. 1, as it may be amended from time to time.

(Ord. 12-02, passed 8-28-2012)

§ 130.02 PURPOSE AND FINDINGS.

(A) The Board of Commissioners intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

(B) The County Board of Commissioners finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement;

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user;

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and, in some circumstances, provide the alcohol;

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove and an ordinance is

necessary to help further combat underage consumption; and

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs and the host knows or reasonably should know that such conduct is taking place.

(Ord. 12-02, passed 8-28-2012)

§ 130.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ALCOHOL.** Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(B) **ALCOHOLIC BEVERAGE.** Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, liquor, wine or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

(C) **EVENT** or **GATHERING.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(D) **HOST.** To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event, whether that host is present or not.

(E) **PARENT.** Any person having legal custody of a juvenile:

- (1) As natural, adoptive parent or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

(F) **PERSON.** Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

(G) **RESIDENCE** or **PREMISES.** Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or for any social function, and whether owned, leased, rented or used with or without permission or compensation.

(H) **UNDERAGE PERSON.** Any individual under 21 years of age.

(Ord. 12-02, passed 8-28-2012)

§ 130.04 JURISDICTION.

This chapter shall be applicable in all incorporated and unincorporated municipalities (city or township) within the boundaries of the county under the jurisdiction of the County Human Services Board. This chapter does not preempt any ordinance adopted by a city (or township), as long as said ordinance is no less restrictive than this chapter.

(Ord. 12-02, passed 8-28-2012)

§ 130.05 PROHIBITED ACTS.

(A) It is unlawful for any person(s) to host or knowingly allow an event or gathering to take place at any residence, premises or on any other private or public property in the county under the following circumstances:

- (1) Where alcohol or alcoholic beverages are present;
- (2) The person knows or reasonably should know that an underage person will or does:
 - (a) Consume any alcohol or alcoholic beverage; and/or
 - (b) Possess any alcohol or alcoholic beverage with the intent to consume it.
- (3) The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(B) A person is criminally responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(C) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

(Ord. 12-02, passed 8-28-2012) Penalty, see §130.99

§ 130.06 EXCEPTIONS.

(A) This chapter does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(B) This chapter does not apply to legally protected religious observations.

(C) This chapter does not apply to retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by M.S. § 340A.503, subd. 1(a)(1), as it may be amended from time to time.

(D) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(E) This chapter does not apply to situations where landlords, farmers and other property owners did not know, nor was it reasonable under the circumstances for them to know, that underage possession and/or underage consumption was taking place on their property.

(Ord. 12-02, passed 8-28-2012)

§ 130.07 ENFORCEMENT.

This chapter can be enforced by any police officer, Sheriff's deputy or certified peace officer in the county.

(Ord. 12-02, passed 8-28-2012)

§ 130.08 EFFECTIVE DATE.

This chapter shall take effect 30 days following its final passage and adoption.

(Ord. 12-02, passed 8-28-2012)

§ 130.99 PENALTY.

Violation of § 130.05 of this chapter is a misdemeanor.

(Ord. 12-02, passed 8-28-2012)

CHAPTER 131 : WATER SURFACE USE

Section

- 131.01 Title
- 131.02 Intent and purpose
- 131.03 Definitions
- 131.04 Speed restrictions
- 131.05 Water safety regulations
- 131.06 Enforcement
- 131.07 Notification
- 131.08 Effective date
- 131.09 Exemptions

- 131.99 Penalty

§ 131.01 TITLE.

This chapter shall be known, cited and referred to as the "Wright County Water Surface Use Ordinance".

(Ord. 14-01, passed 5-13-2014)

§ 131.02 INTENT AND PURPOSE.

(A) This chapter is enacted under the general powers delegated to counties by the state, and pursuant to M.S. §§ 86B.205 and 375.51, as they may be amended from time to time, and all enabling state rules based thereon.

(B) It is the intent and purpose of this chapter to:

- (1) To promote the full use and enjoyment by all of the people, now and in the future, and to promote safety for all persons and property in connection with the use of the waters of the county;
- (2) To conserve the quality of the natural environment; and
- (3) To promote the general health, safety and welfare of the citizens of the county.

(Ord. 14-01, passed 5-13-2014)

§ 131.03 DEFINITIONS.

(A) For purposes of this chapter, the terms related to boating are defined in M.S. § 86B.005, as it may be amended from time to time. The following are added in addition to the definitions contained in M.S. § 86B.005, as it may be amended from time to time.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **CHANNEL.** Any area on a public body of water in which the distance between the shoreline on opposing sides of the public body of water is less than 300 feet.

(2) **CONGESTED AREA.** A crowded condition on the surface of a public body of water that occurs when there are three or more motorboats, swimmers, buoys or flags concentrated in a small or narrow space.

(Ord. 14-01, passed 5-13-2014)

§ 131.04 SPEED RESTRICTIONS.

(A) *Bertram Chain of Lakes.* The following surface water restrictions shall apply to Bertram, Long, Mud and First Lakes also known as the Bertram Chain of Lakes and other waters which are located within the boundary of the Bertram Chain of Lakes County Park. The following restrictions apply 24 hours a day, year round.

- (1) No person shall operate a gas powered motor on a watercraft.
- (2) No person shall operate a sea plane or motor vehicle including off-road vehicles and snowmobiles.
- (3) Electric motors are allowed with a maximum thrust of 100 pounds or two horsepower.
- (4) The lower unit of a gas powered motor on a watercraft must be propped up out of the water.

(B) *Cedar Lake (86022700).* The following surface water restrictions shall apply to Cedar Lake. When lake level reaches or exceeds an elevation of 999.17 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 999.17 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(C) *East and West Lake Sylvia (86028900, 86027900).* The following surface water restrictions shall apply to East and West Lake Sylvia.

(1) No person shall operate a motorboat, including seaplane, in excess of slow-no wake speed within the channel between East and West Lake Sylvia.

(2) When lake level reaches or exceeds an elevation of 1,050.58 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 1,050.58 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(3) No person shall operate a motorboat, including seaplanes, in excess of slow-no wake speed within 150 feet of the shoreline, 24 hours a day, between Memorial Day weekend and Labor Day unless launching or landing skiers directly to or from open water.

(D) *Howard Lake (86019900).* The following surface water restrictions shall apply to Howard Lake.

(1) No person shall operate a motorboat, including seaplanes, in excess of slow-no wake speed within 150 feet of the shoreline, 24 hours a day, between Memorial Day weekend and Labor Day unless launching or landing skiers directly to or from open water.

(2) When lake level reaches or exceeds an elevation of 998.58 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 998.58 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(E) *Lake Ann (86019000).* The following surface water restrictions shall apply to Lake Ann.

(1) No person shall operate a motorboat, including seaplanes, in excess of slow-no wake speed within 150 feet of the shoreline, 24 hours a day, between Memorial Day weekend and Labor Day unless launching or landing skiers directly to or from open water.

(2) When lake level reaches or exceeds an elevation of 987.50 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 987.50 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(F) *Pleasant Lake (86025100).* The following surface water restrictions shall apply to Pleasant Lake. When the water level at the Grass Lake Outlet Dam (860243TW) reaches or exceeds an elevation of 992.1 feet above sea level, motorboats shall be

restricted to a slow-no wake speed within 300 feet

from all shoreline on Pleasant Lake (86025100) unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 992.1 feet above sea level at the Grass Lake Outlet Dam (860243TW) for three consecutive days, said restriction on Pleasant Lake shall be promptly removed.

(G) *Lake Charlotte (86001100)*. The following surface water restrictions shall apply to Lake Charlotte. No person shall operate a motorboat, including seaplanes, in excess of slow-no-wake speed within 150 feet of the shoreline 24 hours a day, between Memorial Day weekend and Labor Day unless launching or landing skiers directly to or from open water.

(H) *Lake Augusta (86028400)*. The following surface water restrictions shall apply to Lake Augusta.

(1) When the water level at the Grass Lake Outlet Dam (860243TW) reaches or exceeds an elevation of 992.1 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 992.1 feet above sea level at the Grass Lake Outlet Dam (860243TW) for three consecutive days, said restriction shall be promptly removed.

(2) No person shall operate a motorboat, including seaplane, in excess of slow-no wake speed within the channel between Augusta Lake and Clearwater Lake.

(I) *Lake Caroline (86028100)*. The following surface water restrictions shall apply to Lake Caroline. When the water level at the Grass Lake Outlet Dam (860243TW) reaches or exceeds an elevation of 992.1 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 992.1 feet above sea level at the Grass Lake Outlet Dam (860243TW) for three consecutive days, said restriction shall be promptly removed.

(J) *Clearwater Lake (86025200)*. The following surface water restrictions shall apply to Clearwater Lake.

(1) When the water level at the Grass Lake Outlet Dam (860243TW) reaches or exceeds an elevation of 992.1 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 992.1 feet above sea level at the Grass Lake Outlet Dam (860243TW) for three consecutive days, said restriction shall be promptly removed.

(2) No person shall operate a motorboat, including seaplane, in excess of slow-no wake speed within the channel between Augusta Lake and Clearwater Lake.

(K) *Grass Lake (86024300)*. The following surface water restrictions shall apply to Grass Lake. When the water level at the Grass Lake Outlet Dam (860243TW) reaches or exceeds an elevation of 992.1 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 990.9 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(L) *Lake Louisa (86028200)*. The following surface water restrictions shall apply to Lake Louisa. When lake level at the Fairhaven Dam reaches or exceeds an elevation of 1006.73 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 1006.73 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(M) *Lake Marie (73001400)*. The following surface water restrictions shall apply to Lake Marie. When lake level at the Fairhaven Dam reaches or exceeds an elevation of 1006.73 feet above sea level, motorboats shall be restricted to a slow-no wake speed within 300 feet from all shoreline unless launching or landing skiers directly to or from open water. When high water levels have subsided and have remained below an elevation of 1006.73 feet above sea level for three consecutive days, said restriction shall be promptly removed.

(Ord. 14-01, passed 5-13-2014; Ord. passed 8-15-2015; Ord. 16-3, passed 6-14-2016; Ord. 16-3a, passed 6-14-2016)
Penalty, see § 131.99

§ 131.05 WATER SAFETY REGULATIONS.

(A) No person shall operate a watercraft on the public waters of the county while towing any person on water skis, water tube, aqua plane, surfboard, saucer or similar device on a federal holiday, on Saturday or Sunday or in a congested area at any time unless another person is on the watercraft and in a position to continually observe the person being towed.

(B) No person shall operate a watercraft on the public waters of the county while towing a person on water skis, water tube, aqua plane, surfboard, saucer or similar device, while going into or through a channel.

(C) No person shall operate a watercraft or seaplane on the public waters of the county so as to overtake, pass, or meet any watercraft or seaplane in a channel or narrow passageway so as to endanger other watercraft, seaplane or property or at a speed greater than is reasonable and prudent under the conditions.

(D) No person shall operate any watercraft or seaplane on the public waters of the county in a manner so as to obstruct, or tend to obstruct, or interfere with the passage of a watercraft or seaplane through a channel or narrow passageway.

(E) No person shall swim in a channel or jump or dive from a channel bridge in the public waters of the county.

(Ord. 14-01, passed 5-13-2014) Penalty, see §131.99

§ 131.06 ENFORCEMENT.

The primary responsibility for enforcement of this chapter shall rest with the County Sheriff. This, however, does not preclude enforcement by other licensed peace officers.

(Ord. 14-01, passed 5-13-2014)

§ 131.07 NOTIFICATION.

(A) It shall be the responsibility of the County Sheriff to provide for adequate notification of the public, which shall include placement of a sign at each public watercraft access outlining essential elements of this chapter, as well as the placement of necessary buoys and signs.

(B) The County Sheriff, at his or her discretion, may delegate these duties to a local lake association.

(Ord. 14-01, passed 5-13-2014)

§ 131.08 EFFECTIVE DATE.

This chapter amends and replaces, in its entirety, the amended ordinance relating to public waters located in the county adopted on 3-2-1976. This chapter has been in effect from and after the date of its passage and publication.

(Ord. 14-01, passed 5-13-2014)

§ 131.09 EXEMPTIONS.

(A) All authorized resource management, emergency and enforcement personnel and all employees of the County Parks Department, while acting in the performance of their assigned duties, are exempt from the foregoing restrictions.

(B) Persons with a permit as provided by the County Parks ordinance are exempt from the restrictions in §31.04(A) of this chapter.

(Ord. 17-1, passed 6-27-2017)

§ 131.99 PENALTY.

Any person, firm, corporation or other entity that violates, or assists in violating, any of the provisions of this chapter shall be guilty of a misdemeanor.

(Ord. 14-01, passed 5-13-2014)

TITLE XV: LAND USAGE AND ZONING

Chapter

- 150. GENERAL PROVISIONS**
- 151. BUILDING CODE AND CONSTRUCTION STANDARDS**
- 152. FEEDLOTS**
- 153. (RESERVED)**
- 154. SUBDIVISIONS**
- 155. ZONING**
- 156. SOLID WASTE**
- 157. POINT OF SALE SEPTIC CERTIFICATION**

CHAPTER 150: GENERAL PROVISIONS

Section

- 150.01 Official map; land for future public use
- 150.02 Registered land surveyors; surveys

- 150.99 Penalty

§ 150.01 OFFICIAL MAP; LAND FOR FUTURE PUBLIC USE.

(A) *Purpose.*

(1) Land that is needed for future street and highway purposes and as sites for other necessary public facilities, including parks, trails and public buildings, is frequently diverted to non-public uses which could have been located on other lands without hardship or inconvenience to the owners.

(2) When this happens, public uses of land may be denied or may be obtained only at prohibitive costs or at the expense of dislocating the owners and occupants of the land.

(3) Identification on an official map of land needed for future public uses, permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made which will make such adjustments difficult to accomplish. It is the purpose of this section to establish a uniform procedure for the proper use of official maps as authorized by M.S. § 394.361, as it may be amended from time to time.

(B) *“Official map” defined.*

(1) **OFFICIAL MAP**, as used in this section, means a map adopted in accordance with this section showing existing county and state trunk highways, proposed future county and state trunk highways and the areas needed for widening of existing county and state trunk highways.

(2) An **OFFICIAL MAP** may also show other land needed for future public purposes, including parks, trails and public buildings.

(C) *Jurisdiction.* The jurisdiction of this section shall apply to all the areas of the county outside the incorporated limits of municipalities.

(D) *Initiation of proceedings.* Proceedings for adoption, amendment or repeal of an official map or any part thereof may be initiated by a recommendation of the Planning Commission or action by the County Board of Commissioners on its own initiative, or based on recommendations of an advisory commission or based on the request of another governmental entity.

(E) *Sketch maps and reports.* Every proposal or request for an official map or its amendment or repeal, however initiated, shall be accompanied by a sketch map or plat showing the lands proposed to be included and the public purpose to be served. The County Board of Commissioners may request a report of the Planning Commission as to any proposed official map.

(F) *Notice; hearings.*

(1) *Notice.* The County Board shall call a public hearing on the proposed official map. A notice of time, place and purpose of the hearing and a description of the property to be included in the official map shall be published in the official newspaper once, at least ten days prior to the date of the hearing. At least ten days prior to the hearing, a copy of the notice shall be sent to the governing bodies of all towns and municipalities located within the county and the owners of record of affected properties and the owners of records of property within one-half mile of the affected property. For purposes of this notice, the owner shall be determined by the records of the County Auditor/Treasurer and the notice shall be addressed to the last known address as shown by the Auditor/Treasurer's records. Failure to serve any such notice shall not invalidate the proceedings.

(2) *Public hearing.* At the time and place specified in the notice, the County Board shall hear evidence and arguments concerning the proposal. The hearing may be continued from time to time, with notice of the date and time of the continued hearing to be stated on the record.

(G) *Preparation and filing of maps.*

(1) The official map or maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground. The accuracy of the future acquisition lines shown on the official map shall be attested to by the County Surveyor. An official map shall be of standard plat size, as approved by the County Surveyor. Electronic mapping files (CAD or GIS) shall also be provided. The scale of an official map shall be such so that the map and features thereon are sufficiently legible. The format and content of all official maps shall be subject to approval by the county. In unplatted areas, a centerline survey shall be made, if applicable, prior to the preparation of the final draft of the official map.

(2) After enactment of any ordinance adopting an official map or amending or repealing a previous official map ordinance, a certified copy of the official map or section to which the ordinance relates together with an attached copy of the ordinance shall be filed with the County Auditor/Treasurer who shall file a certified copy thereof with the County Recorder for record.

(3) In addition, one copy of the official map or section to which the ordinance relates, together with an attached copy of the ordinance shall be furnished to the town clerk of each affected town.

(H) *Effect.*

(1) After an official map has been adopted and filed, the issuance of all land use or zoning approvals or building permits shall be subject to the provisions of this section. The County Zoning Administrator shall deny every application for a permit to construct a new building or structure or expand an existing building or structure within any area designated on the official map. In addition, the County Zoning Administrator may deny any application for any use which is deemed to be in conflict with the public purposes shown on the official map. Any preliminary and final subdivision plats filed pursuant to the County Subdivision Ordinance shall reflect the areas covered by any official map which has been adopted and filed. When any building or structure is proposed on lands adjoining any area covered by an official map for county or state trunk highway purposes, any front yard setback, as contained in §§ 155.045 through 155.060 of this code of ordinances, shall be measured from the proposed centerline as shown on the official map, or from the centerline of the existing county or state trunk highway,

whichever is greater.

(2) The adoption of an official map does not give the county a right, title or interest in areas identified for public purposes thereon, but the adoption of the map does authorize the county to acquire such interest without paying compensation for buildings or structures erected in such area without a permit or in violations of the conditions of a permit.

(I) *Appeals.*

(1) Whenever a building permit or land use or zoning approval is denied pursuant to this section, the owner of the land may appeal to the County Board of Adjustment pursuant to § 157.026 of this code of ordinances. In the event of such an appeal, the County Zoning Administrator shall notify any governmental entity which has an interest in the official map or the land in question. Upon appeal, the Board of Adjustment may issue the permit or approval only if it finds that:

(a) The entire property belonging to the owner cannot be put to a reasonable use unless such a permit or approval is granted; and

(b) Balancing the interest of the county in preserving the integrity of the official map and the interest of the owner in the use of the property, issuance of such permit or approval is required by considerations of justice and equity.

(2) In that event, issuance of the permit or approval is stayed for a period of six months to allow the appropriate governmental entity to take steps to acquire the land in question, either through voluntary purchase or by commencing eminent domain proceedings.

(J) *Effective date.* This section shall be and is hereby declared to be in full force and effect from and after its passage and publication according to law.

(Ord. 07-01, passed 2-27-2007) Penalty, see §150.99

§ 150.02 REGISTERED LAND SURVEYORS; SURVEYS.

The County Board of Commissioners does, by ordinance, adopt Minn. Session Law No. 112-1975 and require that any registered land surveyor who shall perform a survey of land for an individual or corporation shall file a true and correct copy of the survey in the office of the County Surveyor within 30 days after completion of the survey. The manner of filing, and all incidents thereof, shall be determined by the County Surveyor. All surveys filed shall be public records and shall be available at all reasonable times for inspection by any person. Furthermore, the County Board requests that a copy of said surveys be available to the County Auditor/Treasurer to keep or to photostat when a deed to this property is presented for recording.

(Res. 75-28, passed 7-1-1975)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99 of this code of ordinances.

(B) Any person violating any provision of § 150.01 of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$1,000 or a term not to exceed 90 days or both, plus, in either case, the costs of prosecution. Each day that a violation is permitted to exist constitutes a separate offense.

(Ord. 07-01, passed 2-27-2007)

CHAPTER 151: BUILDING CODE AND CONSTRUCTION STANDARDS

Section

Building Code

- 151.01 Building Code adopted
- 151.02 Application, administration and enforcement
- 151.03 Permits and fees
- 151.04 Building Code optional chapters
- 151.05 Effective date

- 151.99 Penalty

BUILDING CODE

§ 151.01 BUILDING CODE ADOPTED.

The Minnesota State Building Code, hereinafter referred to as “the Code”, as adopted by the state’s Department of Labor and Industry pursuant to M.S. § 326B, including all of the amendments, rules and regulations established, adopted and

published from time to time by the state's Department of Labor and Industry, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this subchapter. The Code is hereby incorporated in this subchapter as if fully set out herein.

(Ord. 99-02, passed 6-10-2008; Ord. 16-2, passed ---)

§ 151.02 APPLICATION, ADMINISTRATION AND ENFORCEMENT.

(A) The application, administration and enforcement of the Code shall be in accordance with the Minnesota State Building Code.

(B) The Code enforcement agency of the county is called the "Wright County Office of Planning and Zoning".

(C) The Code shall be enforced by a state-certified Building Official designated by the county to administer the Code.

(D) The Code, as adopted by this subchapter, shall apply and be enforced in all areas of the county outside the limits of the incorporated cities.

(Ord. 99-02, passed 6-10-2008)

§ 151.03 PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, as it may be amended from time to time. Permit fees shall be set by resolution adopted by the County Board of Commissioners, as provided in § 157.030 of this code of ordinances.

(Ord. 99-02, passed 6-10-2008)

§ 151.04 BUILDING CODE OPTIONAL CHAPTERS.

(A) The Minnesota State Building Code, established pursuant to M.S. §§ 326B.101 to 326B.194, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

(B) The following optional provisions identified in the most current edition of the Minnesota State Building Code are hereby adopted and incorporated as part of the Code for the county.

(Ord. 99-02, passed 6-10-2008)

§ 151.05 EFFECTIVE DATE.

This subchapter, as amended, was effective upon publication.

(Ord. 99-02, passed 6-10-2008)

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99 of this code of ordinances.

(B) (1) Any person, firm, corporation or other entity who shall violate any of the provisions of the Code, adopted in § 151.01 of this chapter, or who shall fail to comply with any of the provisions of the Code or who shall make any false statement in any document required to be submitted under the

provisions hereof, shall be guilty of a misdemeanor pursuant to M.S. § 326B.082, as it may be amended from time to time, and subject to penalties as set forth in M.S. § 609.03, as it may be amended from time to time. Each day that a violation continues shall constitute a separate offense.

(2) In addition to the criminal remedy set out above, the Building Official, in the event of a violation or threatened violation of the Code, may request that the County Attorney commence appropriate civil legal action to prevent, restrain, correct or abate such violation or threatened violation.

(Ord. 99-02, passed 6-10-2008)

CHAPTER 152: FEEDLOTS

Section

General Provisions

152.001 Title

152.002 Statutory authorization

152.003 Intent and purpose

- 152.004 Jurisdiction
- 152.005 Scope
- 152.006 Application
- 152.007 Measurements
- 152.008 Compliance
- 152.009 Definitions
- 152.010 Effective date

Minimum Standards; Regulations

- 152.025 Minimum area and animal density
- 152.026 Additional land
- 152.027 Building, holding basin, lagoon and manure storage area; setbacks
- 152.028 Wetland setbacks
- 152.029 Well setbacks
- 152.030 Wellhead protection areas
- 152.031 Shoreland
- 152.032 Municipality setbacks
- 152.033 Disposal of animal carcasses
- 152.034 Coordination with County Zoning Ordinance
- 152.035 Prohibited locations
- 152.036 Land application of manure
- 152.037 Manure storage and transportation

Land Application Sites; Restrictions

- 152.050 Soil loss in shoreland areas
- 152.051 Right-of-way
- 152.052 Frozen or snow-covered soils
- 152.053 Lakes and perennial streams
- 152.054 Other special protection areas
- 152.055 Floodplains
- 152.056 Drainage ditches
- 152.057 Private wells
- 152.058 Public wells
- 152.059 Residences
- 152.060 Treatment or disposal
- 152.061 Irrigation of liquid manure

Administration

- 152.075 Administrator; duties and powers
- 152.076 Administered by the county
- 152.077 Administered by the state
- 152.078 Conditional use permit
- 152.079 Variances

Registration and Permits

- 152.090 Registration
- 152.091 Permit required

- 152.092 Shoreland review required
- 152.093 Permit application
- 152.094 Notice of application
- 152.095 Duration of construction short-form and interim permits

Violations and Enforcement

- 152.110 Violations
- 152.111 Stop work orders
- 152.112 Revocation or suspension
- 152.113 Interference prohibited
- 152.114 Access to premises
- 152.115 Injunctive relief and other remedies
- 152.116 Reporting of spills and accidental discharges
- 152.117 Abandonment and accidental discharges

GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known, cited and referred to as the "Wright County Feedlot Ordinance".

(Ord. 06-02, passed 4-4-2006)

§ 152.002 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization and policies contained in: M.S. §§ 103B.301 through 103B.335, as they may be amended from time to time; M.S. § 116.07, subd. 7, as it may be amended from time to time; and the state's Pollution Control Agency Rules, parts 7020.0100 through 7020.2225; and the county planning and zoning enabling legislation in M.S. Ch. 394, as it may be amended from time to time.

(Ord. 06-02, passed 4-4-2006)

§ 152.003 INTENT AND PURPOSE.

(A) The production of farm animals and other agricultural products is an important part of the history, environment and economy of the county. Livestock, poultry, dairy products and other agricultural commodities are produced within the county for consumption in the state, 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.

(B) The county also contains a wealth of natural resources including an abundance of surface and ground water. These resources must be protected from pollution to ensure the health of the public and to maintain safe, high quality water for recreational, residential, agricultural and commercial use. The following regulations have been established to protect natural resources and the quality of life in the county while recognizing the importance of animal agriculture and the beneficial uses of animal manure in the production of agricultural crops.

(C) 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 animal feedlots and animal wastes are properly managed to protect the health of the public and the county's natural resources.

(D) Therefore, this chapter is adopted for the purpose of:

- (1) Being a delegated county pursuant to M.S. § 116.07, subd. 7, as it may be amended from time to time, and Minn. Rules Ch. 7020;
- (2) Establishing a procedure for the permitting of feedlots;
- (3) Regulating the location, development, operation and expansion of feedlots;
- (4) Promoting best farm management practices;
- (5) Protecting ground and surface water resources; and
- (6) Minimizing environmental problems.

(Ord. 06-02, passed 4-4-2006)

§ 152.004 JURISDICTION.

The jurisdiction of this chapter shall apply to all the areas of the county outside the incorporated limits of municipalities.

(Ord. 06-02, passed 4-4-2006)

§ 152.005 SCOPE.

(A) (1) From and after the effective dates of this chapter 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 the county shall be in conformity with the provisions of this chapter.

(2) Pre-existing structures which are not in conformity with the setback and area provisions of this chapter, but were in conformity with the standards established by Ch. 155 of this code of ordinances, shall be allowed if a potential pollution hazard does not exist and the registration procedures in § 152.090 of this chapter are complied with.

(B) (1) A feedlot that is non-conforming because of excessive animal unit numbers, which exists at the time of adoption of this chapter, may be continued; provided that, the number of animal units does not increase.

(2) Whenever a non-conforming feedlot has reduced its animal unit numbers over a period of more than one year to a lesser number of animal units, such animal unit numbers shall not thereafter be increased.

(Ord. 06-02, passed 4-4-2006)

§ 152.006 APPLICATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

(B) Where the conditions imposed by any provision of this chapter 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.

(Ord. 06-02, passed 4-4-2006)

§ 152.007 MEASUREMENTS.

All stated and measured distance shall be taken to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(Ord. 06-02, passed 4-4-2006)

§ 152.008 COMPLIANCE.

The use of any land for the establishment, expansion or management of an animal feedlot shall comply with the provisions of this chapter, Ch. 155 of this code of ordinances and the provisions of the state's Pollution Control Agency rules, Ch. 7020.

(Ord. 06-02, passed 4-4-2006)

§ 152.009 DEFINITIONS.

(A) For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(1) The word "shall" is mandatory, and not discretionary; the word "may" is permissive; the word "person" shall include individuals, businesses and corporations.

(2) Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular.

(3) Words shall be given their common usage if not defined.

(4) The words "used for" shall include the phrases "arranged for", "intended for", "maintained for" and "occupied for".

(5) The masculine gender shall include the feminine and neuter.

(6) The word "Board" includes the "County Commissioners", the "Board of County Commissioners" or any other word or words meaning the "Wright County Board of Commissioners".

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **AGENCY.** The state's Pollution Control Agency as established in M.S. Ch. 116, as it may be amended from time to time.

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

(3) **ANIMAL UNIT.** A unit of measure used to compare differences in the production of animal manures which has as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this chapter, the definition and units of measure contained in Minn. Rules part 7020.0300, subpart 5, shall apply.

(4) **BLUFF.** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of a **BLUFF**):

- (a) Part or all of the feature is located in a shoreland area;
 - (b) The slope rises at least 25 feet above the ordinary high water level of the water body;
 - (c) 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 30% or greater; and
 - (d) The slope drains toward the water body.
- (5) **BLUFF IMPACT ZONE.** A bluff and land located within 20 feet from the top of a bluff.
- (6) **BOARD.** The Wright County Board of Commissioners.
- (7) **BUILDING.** Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate **BUILDING**.
- (8) **BUILDING, AGRICULTURAL.** All buildings, other than dwellings, which are incidental to a farming operation.
- (9) **COMMISSIONER.** The Commissioner of the state's Pollution Agency whose duties are defined in M.S. § 116.03, as it may be amended from time to time.
- (10) **CONDITIONAL USE PERMIT.** A permit specifically and individually granted with provisions by the Planning Commission after recommendations thereon pursuant to the provisions of Ch. 155 of this code of ordinances.
- (11) **CONSTRUCTION SHORT-FORM PERMIT.** A permit giving permission for construction or expansion of a feedlot or manure storage area when there is not a pollution hazard.
- (12) **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.
- (13) **DRAINAGE WAY.** 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 flood water.
- (14) **FAMILY.** An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.
- (15) **FAMILY, IMMEDIATE.** Persons related by blood, marriage or certified legal instrument.
- (16) **FEEDLOT ADMINISTRATOR.** A county employee appointed by the Board of Commissioners to administer the provisions of this chapter. This employee shall have the same duties and powers as a Feedlot Officer, as defined by Minn. State Rules Ch. 7020.
- (17) **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. Pastures shall not be considered **ANIMAL FEEDLOTS** under these rules. Fish farms (aquaculture) shall be considered **FEEDLOTS** for the purposes of this chapter.
- (18) **FEEDLOT, (NEW) ANIMAL.** An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five years or more.
- (19) **FEEDLOT, OPERATOR.** An individual, a corporation, a group of individuals, a partnership, joint venture, owner or any other business entity having charge or control of one or more animal feedlots, poultry lots or other animal lots.
- (20) **FEEDLOT PERMIT.** A document issued by the agency or county which contains requirements, conditions and compliance schedules relating to the discharge of animal manure pollutants.
- (21) **FEEDLOT, RUNOFF.** The movement of water from a feedlot, either in the form of rainfall, snow melt, or as water from a waterway, ditch, drainage way and the like passing over a feedlot, carrying particles of manure into a body of water or to a channelized flow environment and thereby constituting a potential pollution hazard.
- (22) **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.
- (23) **FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (24) **FLOOD FRINGE.** The portion of the floodplain outside of the floodway.
- (25) **FLOODPLAIN.** Any area contained within the Floodplain Overlay District, as defined by § 157.056 of this code of ordinances.
- (26) **HOLDING POND.**
- (a) A storage facility, usually earthen, where feedlot runoff and other diluted wastes are stored before final disposal.

(b) It is not designed for treatment of waste.

(27) **IMMEDIATELY INCORPORATED.** Manure or process wastewaters tilled into the soil within 24 hours of application and prior to rainfall.

(28) **INTERIM PERMIT.** A permit expiring no later than two years from the date of issuance, identifying the necessary corrective measures to abate potential pollution hazards.

(29) **LAGOON, ANIMAL.** An impoundment made by excavation of earth fill and/or construction of an earthen berm for the biological treatment of animal or other agricultural waste.

(30) **MANURE STORAGE AREA.** An area where animal manure or runoff containing animal manure is stored or placed until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site.

(31) **NRCS.** The Natural Resource Conservation Service of the USDA, a federal agency.

(32) **OWNER.** Any person having possession, control or title to an animal feedlot.

(33) **PARCEL.** The same as a **LOT OF RECORD**, as defined by Ch. 155 of this code of ordinances.

(34) **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 watering devices.

(35) **PERSON.** Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(36) **POTENTIAL POLLUTION HAZARD.** A condition which indicates a potential for pollution of land and/or waters including, but not limited to:

(a) An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface water or ground water of the state in excess of applicable standards, including, but not limited to, Minn. Rules Ch. 7050, during a rainstorm event of less magnitude than the 25-year, 24-hour event or will violate any state or county rules or ordinances; or

(b) An animal feedlot or manure storage area located within shoreland area or floodplain.

(37) **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.

(38) **SHORELAND.** Any area contained within the Shoreland District under §155.057 of this code of ordinances.

(39) **SPECIAL PROTECTION AREA.** Land within 300 feet of all:

(a) Protected waters and protected wetlands as identified on the Department of Natural Resources Protected Waters and Wetlands map for the county; and

(b) Intermittent streams and ditches identified on United States Geological Survey quadrangle maps, excluding drainage ditches with berms and segments of intermittent streams which are grassed waterways.

(40) **SWCD.** The Wright Soil and Water Conservation District.

(41) **TRANSITION AREAS.** Areas adjacent to cities where a combination of uses in an urban or near-urban environment is likely to develop over the long term, as designated in the county's land use plan.

(42) **USDA.** United States Department of Agriculture.

(43) **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.

(44) **WETLANDS.** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

(Ord. 06-02, passed 4-4-2006)

§ 152.010 EFFECTIVE DATE.

This chapter was originally adopted on 5-15-1998 and was in full force and effect upon publication.

(Ord. 06-02, passed 4-4-2006; Ord. 18-4, passed 6-19-2018)

MINIMUM STANDARDS; REGULATIONS

§ 152.025 MINIMUM AREA AND ANIMAL DENSITY.

(A) *Minimum of four acres.* Except as provided in division (B) of this section, a minimum area of four acres or such greater area required to meet all setbacks set forth by this chapter and Ch. 155 of this code of ordinances shall be required for animal

feedlot operations. On lots larger than four acres in the A/R, R-1, R-2, R-2a, R-3, S-1, S-2, S-3 and W Zoning Districts, animals shall be allowed at a maximum density of one-half animal unit per acre. In the AG Zoning District, animals shall be allowed at a maximum density of one-half animal unit per acre on parcels of four to ten acres. These restrictions shall not apply to normal farm operations existing prior to the adoption of this chapter or to farms in the AG Zoning District on parcels over ten acres in size. Parcels in the A/R Zoning District are limited to less than ten animal units regardless of parcel size. Parcel size in all districts is determined using all adjoining parcels under common ownership. New feedlots in shoreland, as allowed by § 152.031(C), are limited to less than ten animal units, regardless of parcel size. Livestock shall include those animals listed in § 155.003(B) of this chapter, except for dogs, cats and rabbits as domestic pets.

(B) *Fowl and chickens.* Every parcel of property, except for parcels in the R-1 and W Zoning Districts under 2.5 acres, and notwithstanding any provision to the contrary in §§ 152.027-152.031 and Ch. 155, shall be allowed to have up to five domesticated fowl and 30 chickens, except roosters, provided the following setbacks are met:

(1) Poultry buildings will be setback a minimum of 50 feet from side and rear property lines and 300 feet from the ordinary high water mark of any public body of water.

(2) Road setbacks are as required under Ch. 155; and

(3) Poultry on less than four acres must be contained in a fenced enclosure. The fence must be setback at least 15 feet from all side and rear property lines, and must meet all road setback requirements. The fence must be setback at least 50 feet from the ordinary high water level of a public body of water, provided there is a buffer, as defined under M.S. § 103F.48, between the fence and the public body of water.

(Ord. 06-02, passed 4-4-2006; Ord. 16-6, passed 10-18-2016)

§ 152.026 ADDITIONAL LAND.

The animal feedlot owner shall own or have sufficient additional land under contract to meet the manure utilization requirement for spreading of manure produced in their feedlot. The county shall retain copies of all written agreements between the feedlot operators and lessors or any person who permits land application of manure. No land area may be subject to more than one such agreement.

(Ord. 06-02, passed 4-4-2006)

§ 152.027 BUILDING, HOLDING BASIN, LAGOON AND MANURE STORAGE AREA; SETBACKS.

(A) *General.* No permits shall be issued for the construction of an open-air clay, earthen or flexible membrane lined swine waste lagoon or holding pond. This prohibition does not apply to repair or modification related to an environmental improvement of an existing lagoon or holding pond, nor does it apply to containment basins constructed to handle runoff only from existing animal feedlots, as necessary to correct a potential pollution hazard. Livestock buildings, manure holding basins, lagoons and manure storage areas shall be constructed, operated and maintained so as to minimize the aesthetic, health, odor and pollution concerns associated with neighboring properties and land uses. The following setbacks shall apply.

(1) *Property lines.*

(a) All buildings housing livestock, open feedlots and solid manure storage areas, including short-term stockpiling sites: 100 feet; and

(b) Liquid manure storage areas in compliance with Minn. Rules part 7020.2100: 200 feet.

(2) *Neighboring properties.*

(a) *Pre-ordinance feedlots.*

1. The modifications and/or expansion of existing animal feedlots and/or permanent manure storage areas that are located within 500 feet of an existing dwelling unit may be allowed, if they do not further encroach on the established setback. Existing feedlots that are within 1,000 feet of an existing dwelling may not expand to more than 499 animal units, unless a conditional use permit is obtained.

2. When an expansion requires a CUP, the Planning Commission shall consider the impact on pre-existing dwelling units within 1,000 feet and may require that the expansion meet the standards of a new feedlot.

(b) *Post-ordinance feedlots.*

1. No permits for a new dwelling unit shall be issued within 500 feet of an existing registered and/or permitted animal feedlot or permanent manure storage area of ten to 499 animal units, nor within 1,000 feet of an existing registered and/or permitted animal feedlot or permanent manure storage area of 500 or more animal units unless a variance is obtained under § 152.079 of this chapter.

2. No permits shall be issued for the construction and/or creation of a new animal feedlot or permanent manure storage area requiring registration and/or a permit of ten to 499 animal units that is located within 500 feet of an existing dwelling, nor for the construction and/or creation of a new animal feedlot or permanent manure storage area of 500 or more animal units within 1,000 feet of an existing dwelling unless a variance is obtained under § 152.079 of this chapter.

3. An animal feedlot that currently does not need to register and is located within 500 feet of a dwelling owned by a person other than an immediate family member may not expand to such a number of animal units that would require registration and/or a permit.

(c) *Commercial or industrial activity.* Five hundred feet from any area zoned B-1, B-2 or I-1 under Ch. 155 of this code of ordinances.

(d) *Exemption.* Owners and/or operators of an existing feedlot, a proposed feedlot or a feedlot modification or expansion, and their immediate family, shall be exempt from the setback requirements set forth in this section, with respect to any dwellings or feedlot improvements owned by them. Division (A)(1) above regarding property line setbacks shall still be valid.

(B) *Minimum standards.* The standards set above are minimum standards that may be increased by the Planning Commission during the conditional use permit issuance process due to concerns or circumstances unique to a specific feedlot permit application.

(C) *Existing operations.* Animal feedlots in active operation prior to the adoption of this chapter shall comply with the standards of this section whenever possible when a change in operation, animal numbers or new livestock facility is proposed.

(Ord. 06-02, passed 4-4-2006)

§ 152.028 WETLAND SETBACKS.

The provisions of this section apply only to those areas which are not designated as Shoreland District under §155.057 of this code of ordinances.

(A) No new animal feedlots or manure storage areas shall be located within 300 feet of any protected waters or wetlands identified on the Department of Natural Resources Protected Water and Wetlands Map for the county.

(B) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 300 feet of any protected waters or wetlands identified on the Department of Natural Resources Protected Water and Wetlands Map for the county are allowed as long as the expansion does not further encroach into the wetland or pose a potential pollution hazard.

(C) No new animal feedlot or manure storage areas shall be allowed within 100 feet of a wetland of Types 3, 4 or 5 that does not appear on the Department of Natural Resources Protected Water and Wetlands Map for the county.

(D) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 100 feet of a wetland of Types 3, 4 or 5 that does not appear on the Department of Natural Resources Protected Water and Wetlands Map for the county are allowed as long as the expansion does not further encroach into the wetland or pose a potential pollution hazard.

(Ord. 06-02, passed 4-4-2006)

§ 152.029 WELL SETBACKS.

(A) New animal feedlots or manure storage areas shall not be located within 100 feet of a private well.

(B) Modifications or expansions to existing animal feedlots or manure storage areas that are located within 100 feet of a private well are allowed if the expansion does not further encroach into the well setback.

(Ord. 06-02, passed 4-4-2006)

§ 152.030 WELLHEAD PROTECTION AREAS.

Feedlot and manure management practices may be further regulated within well head protection zones established by local units of government.

(Ord. 06-02, passed 4-4-2006)

§ 152.031 SHORELAND.

(A) New animal feedlots or manure storage areas shall not be located within any area classified as the County Shoreland Zoning District under § 155.057 of this code of ordinances, nor in the bluff impact zones except as allowed in (C).

(B) Modifications or expansions to animal feedlots that existed as of 10-16-2000, and that are located within any area classified as the County Shoreland District under § 155.057 of this code of ordinances or within a bluff impact zone are allowed, if they do not further encroach into the shoreland setback, do not further encroach on bluff impact zones, if all identified pollution hazards are corrected, and if they obtain a feedlot permit. No feedlot is allowed to expand to a capacity of 1,000 animal units or more or the manure produced by 1,000 animal units or more within the shoreland district.

(C) For parcels meeting the density requirement of §152.025(A), livestock, except for cattle, poultry, and hogs, shall be allowed at a maximum density of one-half animal unit per acre provided the following setbacks and requirements are met:

(1) All animal structures and feedlots must be 300 feet from the ordinary high water level of all public bodies of water.

(2) Animals may be located in a pasture that is within 300 feet of the ordinary high water level of a public body of water provided the pasture is fenced so as to prevent animals from coming within 50 feet of the ordinary high water level and there is a buffer, as defined under M.S. § 103F.48, between the fence and the public body of water.

(3) The facility must have an animal unit capacity less than ten animal units at all times. The owner may not establish a feedlot less than ten animal units and subsequently expand to a feedlot of ten animal units or more as an existing facility as

would otherwise be allowed.

(4) The owner must complete the Minnesota Pollution Control Agency Notice of Construction or Expansion Form and submit a copy to the County Feedlot Program Administrator and all local zoning authorities.

(5) The county may request that the owner submit plans and specifications for review.

(Ord. 06-02, passed 4-4-2006; Ord. 16-6, passed 10-18-2016)

§ 152.032 MUNICIPALITY SETBACKS.

(A) Any new animal feedlot or expansion of a post ordinance animal feedlot in excess of 50 animal units within one-half mile of a municipal border, excluding the Cities of Otsego and St. Michael, in a General Agriculture (AG) Zoned District will require a conditional use permit with a maximum 300 animal unit limit.

(B) Pre-ordinance animal feedlots within one-half mile of a municipal border, excluding the cities of Otsego and St. Michael, in a General Agriculture (AG) Zoned District may be allowed to expand up to 500 animal units if they do not further encroach on existing setbacks.

(Ord. 06-02, passed 4-4-2006)

§ 152.033 DISPOSAL OF ANIMAL CARCASSES.

The animal feedlot owner shall provide a plan indicating the method to be used for the disposal of animal carcasses.

(A) The plan for dead animal disposal shall be consistent with the state's Board of Animal Health regulations, Minn. Rules Ch. 1719.

(B) The disposal plan shall include the name and location of any rendering service to be used and methods for protecting carcasses from scavengers.

(C) Animal carcasses, either whole, partial or ground-up, shall not be disposed of in the manure storage structure.

(Ord. 06-02, passed 4-4-2006)

§ 152.034 COORDINATION WITH COUNTY ZONING ORDINANCE.

All provisions of this chapter shall be coordinated with and referenced to Ch. 155 of this code of ordinances to ensure the compatibility and comprehensive coverage of the requirements of both ordinances.

(Ord. 06-02, passed 4-4-2006)

§ 152.035 PROHIBITED LOCATIONS.

No new animal feedlots shall be constructed within any 100-year floodplain.

(Ord. 06-02, passed 4-4-2006)

§ 152.036 LAND APPLICATION OF MANURE.

All land application of manure or process wastewater shall comply with Minn. Rules part 7020.2225.

(Ord. 06-02, passed 4-4-2006)

§ 152.037 MANURE STORAGE AND TRANSPORTATION.

(A) *Compliance with state and local standards.* All animal manure shall be stored and transported in conformance with the state's Pollution Control Agency Rules 7020 and this chapter.

(B) *Potential pollution hazard prohibited.* No manure storage area shall be constructed, located or operated so as to create or maintain a potential pollution hazard unless a certificate of compliance or a permit has been issued by the MPCA.

(C) *Vehicles, spreaders.* All vehicles used to transport animal manure on public roads shall be leak-proof. Manure spreaders with end gates shall be in compliance with this provision; provided, the end gate works effectively to restrict leakage and the manure spreader is leak-proof.

(D) *Utilization as domestic fertilizer.* Animal manure, where utilized as domestic fertilizer, shall not be stored for longer than one year.

(E) *Runoff control structures.* All manure storage areas shall have runoff control structures to contain the liquid if the storage area is located where a potential pollution hazard exists.

(F) *Storage capacity.* 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.

(G) *Liquid manure storage areas.* All liquid manure storage areas must comply with the provisions of Minn. Rules part 7020.2100.

(H) *Steel tanks.* No steel tanks shall be used for underground manure storage.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

LAND APPLICATION SITES; RESTRICTIONS

§ 152.050 SOIL LOSS IN SHORELAND AREAS.

Land application of manure or process wastewater shall not be allowed on soils within shoreland that exceed allowable soil loss as set by the NRCS, with assistance from the SWCD, unless a conservation plan that will reduce soil loss to the allowable level is developed and is showing progress towards implementation within one year of issuance of a feedlot permit or interim permit.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.051 RIGHT-OF-WAY.

Manure or process wastewater shall not be applied to the right-of-way of public roads.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.052 FROZEN OR SNOW-COVERED SOILS.

Manure or process wastewater shall not be applied to frozen or snow-covered soils in special protection areas.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.053 LAKES AND PERENNIAL STREAMS.

(A) A minimum distance of 300 feet shall be maintained between surface applications of manure or process wastewaters and all lakes and perennial streams on unfrozen soils.

(B) In cases when manure is injected or immediately incorporated, or if there is at least a 100-foot perennial buffer, the separation distance may be reduced to 100 feet on unfrozen soils.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.054 OTHER SPECIAL PROTECTION AREAS.

(A) A minimum distance of 300 feet shall be maintained between surface applications of manure or process wastewaters and all other special protection areas on unfrozen soils.

(B) In cases where manure is injected or immediately incorporated, or if there is at least a 50-foot perennial buffer, the separation distance may be reduced to 75 feet on unfrozen soils.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.055 FLOODPLAINS.

Manure or process wastewater applications in the Floodplain Overlay District as defined by § 157.056 of this code of ordinances shall maintain the following setbacks.

(A) No application to frozen or snow-covered soils in the floodplain.

(B) Any application to unfrozen soils in the floodplain shall be immediately incorporated.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.056 DRAINAGE DITCHES.

If no potential pollution hazard exists, a minimum distance of one rod or 16.5 feet shall be maintained between surface applications of manure or process wastewater and drainage ditches or grassed waterways unless classified as a wetland or protected water.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.057 PRIVATE WELLS.

If no potential pollution hazard exists, a minimum distance of 100 feet shall be maintained between all applications of manure or process wastewater and any private water supply well.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.058 PUBLIC WELLS.

If no potential pollution hazard exists, a minimum distance of 300 feet shall be maintained between all application of manure or process wastewater and any public water supply well.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.059 RESIDENCES.

(A) Manure or process wastewater shall not be applied within 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.

(B) When determining the distance between a residence and manure application, the distance shall be measured from the residence, not property lines, to manure application.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.060 TREATMENT OR DISPOSAL.

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

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.061 IRRIGATION OF LIQUID MANURE.

(A) The application of liquid manure or process wastewater by irrigation is prohibited unless a liquid manure irrigation plan for the feedlot has been submitted to and approved by the County Feedlot Administrator.

(B) The liquid manure irrigation plan must contain a description of the specific irrigation process proposed, amounts and frequency of application, analysis of the nutrient content of the manure or a proposed sampling schedule for the manure, a description of the land to be used and a description of the methods to be used to limit aesthetic and odor problems with neighbors.

(C) The County Feedlot Administrator shall provide the SWCD and Planning and Zoning Department with copies of liquid manure irrigation plans for review and comment before approval is given.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

ADMINISTRATION

§ 152.075 ADMINISTRATOR; DUTIES AND POWERS.

(A) (1) This chapter shall be administered by the County Planning and Zoning Office with the assistance of the Wright Soil and Water Conservation District.

(2) The County Board of Commissioners shall appoint the County Feedlot Administrator to discharge the duties of this Department under this chapter.

(B) The County Feedlot Administrator shall have the following duties and powers:

(1) Administer and enforce this chapter;

(2) Issue construction short-form permits and interim permits;

(3) Receive and forward applications for state-administered permits together with county recommendations to the state's Pollution Control Agency;

(4) Supervise the keeping of all necessary records including those related to feedlot and manure management and construction of manure storage and runoff control structures and/or practices;

(5) Consult with SWCD, NRCS, MPCA and private consultants as necessary to ensure construction standards are followed on manure handling and runoff control structures;

(6) Maintain a record of all permits and registration material;

(7) Provide and maintain a public information bureau relative to this chapter;

(8) Educate the public and feedlot operators to issues of this chapter such as potential feedlot pollution problems;

(9) Oversee the inspection of feedlot operations to ensure compliance with this chapter;

(10) Consult with other county departments, state and federal agencies and private consultants as needed to discharge these duties.

(11) Fulfill the requirements of a county feedlot pollution control officer as set out in Minn. Rules part 7020.1600, subpart 2.

(Ord. 06-02, passed 4-4-2006)

§ 152.076 ADMINISTERED BY THE COUNTY.

The County Feedlot Administrator shall review applications and process as follows.

(A) All permit applications shall be processed in accordance with Minn. Rules part 7020.1600, subpart 4a.

(B) Applications for state-administered feedlots shall be first submitted to the County Feedlot Administrator. After review, the application and comments shall be forwarded to the Agency.

(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 or interim permit, if required, has been issued by the Agency or the county.

(Ord. 06-02, passed 4-4-2006)

§ 152.077 ADMINISTERED BY THE STATE.

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

(A) Animal feedlots that are required to obtain a permit under Minn. Rules part 7020.0405, subparts 1A and B. This includes all feedlots of 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 Administrator.

(Ord. 06-02, passed 4-4-2006)

§ 152.078 CONDITIONAL USE PERMIT.

(A) The requirement for a conditional use permit for any new animal feedlot or animal feedlot expansion shall be as follows.

(1) *Zoning districts.*

(a) Any new animal feedlot or animal feedlot expansion which is required to register under this chapter, proposed in a General Agricultural District shall require a conditional use permit if the proposal causes the facility to meet or exceed 500 animal units.

(b) No new animal feedlots or animal feedlot expansion which is required to register under this chapter will be allowed on land zoned Agricultural/Residential (A/R), Urban/Rural Transition (R-1), Suburban Residential (R-2 and R-2a) or Multiple-Family Urban (R-3) Districts.

(2) *Land use plan districts.*

(a) Any new animal feedlot or animal feedlot expansion which is required to register under this chapter proposed in a designated Agricultural District shall require a conditional use permit if the proposal causes the facility to meet or exceed 500 animal units.

(b) Any new animal feedlot or animal feedlot expansion which is required to register under this chapter proposed in a designated Rural Residential District shall require a conditional use permit with a maximum allowable 300 animal units for a new animal feedlot and 500 animal units for an expansion of an existing animal feedlot.

(c) Any animal feedlot expansion which is required to register under this chapter proposed in a designated Residential, Residential Large Lot, Commercial or Industrial District shall require a conditional use permit with a maximum allowable 200 animal units. No new animal feedlots which are required to register under this chapter are allowed in these districts.

(d) No new animal feedlots or animal feedlot expansions which are required to register under this chapter shall be allowed in transition areas.

(B) All conditional use permit determinations must be reviewed against the district requirements of both the county's zoning district maps and the county's land use plan district maps. The more restrictive of the two shall apply for the determination.

(Ord. 06-02, passed 4-4-2006)

§ 152.079 VARIANCES.

(A) A variance from the setback and area requirements of this chapter and Ch. 155 of this code of ordinances may be granted when granting the variance would not result in adverse environmental effects and if the criteria for granting variances under § 155.026(C) of this code of ordinances can be met.

(B) Any person seeking a variance shall complete a variance application form and submit it to the Zoning Administrator.

(C) The matter shall be referred to the County Board of Adjustment for a public hearing. Notice of the public hearing shall be published in the official newspaper of the county at least ten days prior to the hearing. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two miles of the affected property. In unincorporated areas of the county, property owners of record within one-quarter mile of the affected property or the ten 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 variance. In incorporated areas of the county, property owners of record within 500 feet of the property in question shall be notified in writing of the public hearing on the request for a variance.

(D) The Board of Adjustment shall take action on the application within the time limits set out in M.S. § 15.99, as it may be amended from time to time. If the variance is granted, the 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.

(E) A variance may not be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

(F) No application for a variance shall be resubmitted for a period of one year from the date that the request is denied, except the Board of Adjustment may allow a new application, if new evidence or a change in circumstances warrant it.

(Ord. 06-02, passed 4-4-2006)

REGISTRATION AND PERMITS

§ 152.090 REGISTRATION.

(A) Registration shall be required for all animal feedlots of ten animal units or more on a four-year cycle following the guidelines contained in Minn. Rules part 7020.0350, subpart 4. Failure to register is not a violation pursuant to § 152.110 of this chapter. Registration shall also be required for all animal feedlots of less than ten animal units if they are located in shoreland and if modification or expansion of said animal feedlot is proposed.

(B) A registration form shall be made available by the Feedlot Administrator and will include the information required under Minn. Rules part 7020.0350, subpart 1.

(C) Any person owning or operating an existing animal feedlot without a current registration or feedlot permit from the county or the Agency shall register the feedlot operation with the Feedlot Administrator.

(D) A registered animal feedlot shall secure the county and/or state permits when required under this chapter.

(Ord. 06-02, passed 4-4-2006)

§ 152.091 PERMIT REQUIRED.

Any person owning or operating a proposed or existing animal feedlot having ten animal units or more in a shoreland area, or 50 animal units or more anywhere else, shall make application to the Feedlot Administrator for a feedlot permit if any of the following conditions exist:

(A) A new animal feedlot is proposed;

(B) A change in operation of an existing animal feedlot is proposed; a **CHANGE IN OPERATION** includes:

(1) A change in the construction or operation of an animal feedlot that would significantly or adversely affect the storage, handling, utilization or disposal of animal manure;

(2) An increase beyond the registered number of animal units;

(3) Any construction of a building or the expansion of a dirt or concrete lot that contains livestock; and/or

(4) An increase in the number of animal units to ten or more which are confined at an unregistered animal feedlot.

(C) A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations; and

(D) An inspection by Agency staff or the County Feedlot Administrator determines that the animal feedlot creates or maintains a potential pollution hazard.

(Ord. 06-02, passed 4-4-2006)

§ 152.092 SHORELAND REVIEW REQUIRED.

Any animal feedlot of ten animal units or less which is located within the Shoreland Zoning District as designated under § 155.057 of this code of ordinances may be reviewed by the County Feedlot Administrator to determine if a potential pollution hazard exists. The Feedlot Administrator may place conditions upon the operations of such animal feedlots to limit their impact on surface water quality.

(Ord. 06-02, passed 4-4-2006)

§ 152.093 PERMIT APPLICATION.

A permit application shall include the following:

(A) Owner's and operator's name and address;

(B) Location, or proposed location, of the animal feedlot including quarter, section, range and township;

(C) Animal types and maximum number of animals of each type which will be confined at the feedlot;

(D) A scale drawing clearly indicating the dimensions of the feedlot and showing all existing homes, buildings, existing manure storage areas and/or structures, lakes, ponds, watercourses, wetlands, dry-runs, rock outcroppings, roads and wells within 1,000 feet of the proposed feedlot;

(E) Descriptions of the soil types, ground water elevations, topography and drainage pattern of the site and surrounding area;

(F) Plans for buildings and structures as required by this chapter and/or other county and state ordinances and regulations;

(G) A manure and waste management plan including:

- (1) Manure handling and application techniques;
- (2) Acreage available for manure application;
- (3) Runoff potential;
- (4) Plans for proposed manure storage or pollution abatement structures; and
- (5) Plans for the proper disposal of dead livestock.

(H) Leases or agreements allowing the applicant to dispose of manure on land other than his or her own;

(I) Application fees, permit fees and such other fees as established by resolution of the County Board; and

(J) Any provision in this chapter which requires a conditional use permit shall be administered as required by §155.029 of this code of ordinances.

(Ord. 06-02, passed 4-4-2006)

§ 152.094 NOTICE OF APPLICATION.

Persons applying for a new animal feedlot or animal feedlot expansion with a capacity of 500 animal units or more shall provide evidence of complying with the notice requirements contained in M.S. § 116.07, subd. 7a, as it may be amended from time to time.

(Ord. 06-02, passed 4-4-2006)

§ 152.095 DURATION OF CONSTRUCTION SHORT-FORM AND INTERIM PERMITS.

All construction short-form permits and interim permits expire within 24 months of the date of issuance, and may be extended only under the provisions contained in Minn. Rules part 7020.0535, subpart 5.

(Ord. 06-02, passed 4-4-2006)

VIOLATIONS AND ENFORCEMENT

§ 152.110 VIOLATIONS.

(A) 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.

(B) Each day that a violation continues shall constitute a separate offense.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.111 STOP WORK ORDERS.

(A) Whenever any construction or animal feedlot activities are being done contrary to the provisions of this chapter, the County Feedlot Administrator, Environmental Health Officer or Planning and Zoning Administrator may order the work stopped by written notice personally served upon the owner or operator of the feedlot.

(B) Such construction or animal feedlot activities shall cease and desist until subsequent authorization to proceed is received from the County Feedlot Administrator, Environmental Health Officer or Planning and Zoning Administrator.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.112 REVOCATION OR SUSPENSION.

Whenever any animal feedlot is operated in violation of the conditions set forth on the permit, interim permit or certificate of compliance, said permit may be subject to revocation or suspension upon written notice personally served upon the owner or operator of the feedlot.

(Ord. 06-02, passed 4-4-2006)

§ 152.113 INTERFERENCE PROHIBITED.

No person shall hinder or otherwise interfere with the County Feedlot Administrator or his or her assistants in the performance of duties and responsibilities required pursuant to this chapter.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.114 ACCESS TO PREMISES.

Upon the request of the County Feedlot Administrator, 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 Administrator shall be deemed a violation of this chapter, whether or not any other

specific violations are cited.

(Ord. 06-02, passed 4-4-2006) Penalty, see §10.99

§ 152.115 INJUNCTIVE RELIEF AND OTHER REMEDIES.

(A) In the event of a violation of this chapter, the County Feedlot Administrator or the Planning and Zoning Administrator 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.

(B) 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.

(Ord. 06-02, passed 4-4-2006)

§ 152.116 REPORTING OF SPILLS AND ACCIDENTAL DISCHARGES.

Owners and operators of animal feedlots shall immediately report to the County Feedlot Administrator any accidental discharge of animal manure from a lagoon or holding pond.

(Ord. 06-02, passed 4-4-2006)

§ 152.117 ABANDONMENT AND ACCIDENTAL DISCHARGES.

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/Treasurer as a special tax against the real property involved.

(Ord. 06-02, passed 4-4-2006)

CHAPTER 153: (RESERVED)

CHAPTER 154: SUBDIVISIONS

Section

General Provisions

- 154.01 Preamble
- 154.02 Title
- 154.03 Purpose and intent
- 154.04 Jurisdiction
- 154.05 Application
- 154.06 Approval necessary for acceptance of subdivision plats; review
- 154.07 Submittal of plats and metes and bounds divisions; approval
- 154.08 Compliance
- 154.09 Building permits
- 154.10 Rules
- 154.11 Definitions
- 154.12 Exceptions
- 154.13 Registered land surveys
- 154.14 Conveyance by metes and bounds for building development purposes; less than five acres
- 154.15 Effective date

Design Standards

- 154.30 Blocks
- 154.31 Lots

- 154.32 Roads, highways, streets and alleys
- 154.33 Easements
- 154.34 Public sites and open spaces
- 154.35 Preliminary plat content
- 154.36 Data required on final plats

Basic Improvements

- 154.50 General
- 154.51 Road and highway improvements
- 154.52 Sanitary sewer and water distribution improvements
- 154.53 Public utilities

- 154.99 Penalty

GENERAL PROVISIONS

§ 154.01 PREAMBLE.

This chapter establishes regulations for the subdivision and platting of land within the county and without boundaries of municipalities, defining certain terms used herein, providing for the preparation of plats, providing for the installation of streets, road and other improvements; establishing procedures for the approval and recording of plats; and providing penalties for violation of this chapter.

(Ord. passed 12-11-1979)

§ 154.02 TITLE.

This chapter shall be known as the "Subdivision Ordinance of Wright County", and will be referred to herein as "this chapter".

(Ord. passed 12-11-1979)

§ 154.03 PURPOSE AND INTENT.

(A) This chapter is enacted for the following purposes:

- (1) To safeguard the best interests of the county;
- (2) To assist the subdivider in harmonizing his or her interests with those of the county at large, as well as with those of the local municipalities located within the county;
- (3) To prevent piecemeal planning of subdivisions, undesirable, disconnected patchwork of pattern and poor circulation of traffic;
- (4) 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;
- (5) To discourage inferior development which might adversely affect property values; and
- (6) To establish subdivision development of standards compatible with affected municipalities and townships within the county.

(B) It is the purpose and intent of this chapter to make certain regulations and requirements for the platting of land in the 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, Ch. 559, Laws of 1959 as amended, which regulations the Board of County Commissioners deems necessary for the health, safety and general welfare of the county.

(Ord. passed 12-11-1979)

§ 154.04 JURISDICTION.

The regulations herein governing plats and the subdivision of land shall apply to all the areas of the county lying outside the incorporated limits of municipalities.

(Ord. passed 12-11-1979)

§ 154.05 APPLICATION.

(A) 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

subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the re-subdivision or replatting of land or lots.

(B) Division of land in tracts larger than 40 acres in area and 300 feet in width where the remainder is not less than 40 acres shall be exempt from the requirements of this chapter.

(Ord. passed 12-11-1979)

§ 154.06 APPROVAL NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS; REVIEW.

(A) 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, except the Planning Commission shall review and approve all subdivisions of land, less than 40 acres made by metes and bounds description.

(B) Any proposed plat lying within two miles of any municipality within the county shall also be submitted to and reviewed by said municipality. Any proposed plat lying within any county township, or townships, shall also be submitted to, reviewed and commented on by said township or townships.

(Ord. passed 12-11-1979)

§ 154.07 SUBMITTAL OF PLATS AND METES AND BOUNDS DIVISIONS; APPROVAL.

(A) *Proposed plan.*

(1) Prior to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit for review with the Zoning Administrator, subdivision proposed plans which shall contain the following information: tract boundaries, north point, description of nature and purpose of tract, proposed land uses for tract, existing land uses of adjacent tracts, streets on and adjacent to the tract, proposed general street layout, proposed general lot layout and significant topographical and physical features as are determined necessary by the Zoning Administrator.

(2) Such proposed plans will be considered as submitted for informal and confidential discussion between the subdivider and the Zoning Administrator. Submission of a subdivision proposed plan shall not constitute formal filing of a plat with the Commission.

(3) As far as may be practical on the basis of a proposed plan, the Zoning Administrator will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to ensure conformance.

(B) *Preliminary plat; procedure.*

(1) Approval of the County Planning Commission:

(a) Ten copies of the preliminary plat shall be submitted to the County Planning Commission at least 21 days prior to the Planning Commission meeting at which consideration is requested. The County Planning Commission shall hold a public hearing on said preliminary plat. The notice of the public hearing shall be sent to the property owners within 500 feet. It shall not be necessary to notify property owners in cities. Notice shall also be sent to the township board or boards and municipalities within two miles at least ten days prior to the hearing date. Public notice shall consist of a general description of the proposal, the time, date and place of hearing. The applicant must provide the tax parcel number or numbers.

1. For the purpose of notification, ownership of property within the previously described required distance shall be provided by the applicant and shall be certified as being correct. The owner, as herein defined, shall be the fee owner or contract purchaser. The Planning Commission shall act on each plat thereof submitted within 90 days of date of submission, or such time as mutually agreed by the applicant; failure to act shall be deemed as approval. In case the plat is disapproved within 45 days, 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.

2. Approval or disapproval of the preliminary plat shall be conveyed to the subdivider in writing within 45 days after the meeting of the Planning Commission at which such plat was considered.

(b) In case the plat is disapproved, the subdivider shall be notified of the reason for such action. 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 six months, unless an extension is granted by the Planning Commission. The subdivider may file a final plat limited to such portion of the preliminary plat which he or she proposed to record and develop at the time; provided that, such portion must conform to all requirements of this chapter. 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 for approval.

(2) The preliminary plat shall be submitted to the County Commissioner, or Commissioner of the district or districts in which the subdivision is located and the township board, or boards, in which the subdivision is located, for review at least ten days prior to the public hearing.

(3) The preliminary plat shall be submitted to any municipality within two miles of the plat, for review at least ten days prior to the public hearing.

(4) The preliminary plat shall be submitted to the utility or power company for review of utility easements, at least ten days prior to the public hearing.

(5) The County Surveyor and Highway Engineer shall submit a report to the County Planning Commission concerning the feasibility of the proposed plat and its conformance. In the case where the County Surveyor is submitting the preliminary plat, the report shall be submitted either by the County Highway Engineer or other qualified person selected by the County Planning Commission.

(6) The preliminary plat shall be submitted to the Park Board Chairperson and to the Park Board representative.

(7) The preliminary plat shall be accompanied by a fee to be submitted to the Zoning Administrator as established by the County Board. Such fee is to be used for the expense of the county in connection with the review, inspection, approval or disapproval of said plat.

(8) The land survey shall certify conformance to design standards for both preliminary and final plats.

(9) Percolation tests are required on each soil type of building site groups three through eight within the proposed platted area. The soil types will be determined from the *Wright County Soils Survey Atlas* done by the Soils Conservation Service. The location and number of percolation tests may be reduced only at the direction of the County Sanitarian.

(C) *Final plat.*

(1) *Procedure.* After the preliminary plat has been approved, the final plat may be submitted for approval as follows.

(a) *Examination and approval by the County Surveyor.*

1. A copy of the final plat, in preliminary form, shall be submitted to the County Surveyor for examination and approval. The County Surveyor shall examine the plat for conformance to county requirements and state statutes.

2. The owner of the plat shall be charged a fee for such service, in accordance with a schedule established by the County Board of Commissioners.

(b) *Approval of the County Planning Commission.* The final plat shall be submitted to the County Planning Commission at least ten days prior to a Planning Commission meeting at which consideration is requested. The Planning Commission shall act on each plat submitted within 60 days of submission; failure to act shall be deemed as approval. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.

(c) *Approval of the County Board.*

1. After review and approval of the final plat by the Planning Commission, such final plat, with the recommendations of the Planning Commission, shall be submitted to the County Board for action. The County Board shall act on each plat, recommended by the Planning Commission, within 60 days after submission to the County Board.

2. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance 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 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) *Fees.* The final plat shall be accompanied by all fees established by these regulations, all fees to be submitted to the County Zoning Administrator.

(D) *Plat approval.*

(1) Each subdivision plat or registered land survey plat or condominium plat must be approved by the County Surveyor before recording.

(2) The proprietor of the subdivision plat or registered land survey plat or condominium plat shall be charged a fee for the review and approval in accordance with a schedule established by resolution of the Board of County Commissioners.

(Ord. passed 12-11-1979; Ord. 89-1, passed 12-5-1989)

§ 154.08 COMPLIANCE.

No plat of any subdivision shall be entitled to record in the County Recorder's office, or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this chapter.

(Ord. passed 12-11-1979)

§ 154.09 BUILDING PERMITS.

No building permit shall be issued by the county for the construction of any building, structure or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this chapter have been complied with.

(Ord. passed 12-11-1979)

§ 154.10 RULES.

For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word "shall" is mandatory and not discretionary.

(Ord. passed 12-11-1979)

§ 154.11 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

- (A) **ALLEY.** A public right-of-way which affords a secondary means of access to abutting property.
- (B) **BLOCK.** An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, stream or lake.
- (C) **COUNTY.** The County of Wright.
- (D) **COUNTY BOARD.** The Board of County Commissioners of Wright County.
- (E) **COUNTY PLANNING COMMISSION.** The Wright County Planning Commission.
- (F) **COMPREHENSIVE PLAN.** The group of maps, charts and texts that make up the comprehensive long-range plan for the county.
- (G) **DEDICATION.** The contribution of property or of money to the governing body. Said property is forever vacated by the dedicators or their successors.
- (H) **DESIGN STANDARDS.** The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, is indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-ways, blocks, easements and lots.
- (I) **EASEMENT.** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, private right-of-way, storm sewer or storm drainage ways and gas lines.
- (J) **FINAL PLAT.** A drawing or map of a subdivision, meeting all the requirements of the county and the state statutes regarding the platting of land and in such form as required for the purposes of recording.
- (K) **HIGHWAY.** Any public road, thoroughfare or vehicular right-of-way with a federal or state numerical route designation; any public thoroughfare or vehicular right-of-way with a county numerical route designation.
- (L) **HIGHWAY, MAJOR INTERCITY AND REGIONAL.** State and federal highway routes within the county.
- (M) **HIGHWAY, PRINCIPAL ARTERIAL.** The principal county highways; such arterial highways inter-connect communities within the county and adjoining counties, and carry traffic between principal land use districts within the county.
- (N) **HIGHWAY, MINOR ARTERIAL.** The secondary county highways; such highways carry traffic between land use districts, but also provide ready access to private properties.
- (O) **LOT OF RECORD.** A deed which has been recorded with the County Recorder.
- (P) **PARKS AND PLAYGROUNDS.** Public lands and open spaces in the county dedicated or reserved for recreation purposes.
- (Q) **PERCENTAGE OF GRADE.** On street center line, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.
- (R) **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.
- (S) **PRELIMINARY PLAT.** A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.
- (T) **PROTECTIVE COVENANTS.** Contracts made between private parties as to the manner in which land may be used, with the view of protecting and preserving the physical and economic integrity of any given area.
- (U) **ROAD.** A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.
- (V) **ROAD, CUL-DE-SAC.** A minor street or road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- (W) **ROAD WIDTH.** The shortest distance between lines of lots delineating the road right-of-way.
- (X) **SUBDIVIDER.** An individual, firm, association, syndicate, co-partnership, 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 under this chapter.
- (Y) **SUBDIVISION.** The dividing of any parcel of land into two or more parcels.
 - (1) **PLATTED SUBDIVISION.** Any resultant parcel is less than five acres in area and less than 300 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, such parcels must be platted in accordance with the terms and procedures of this chapter.

(2) **UNPLATTED SUBDIVISION.** A division of any parcel of land into two or more parts wherein all parts are at least five acres and have at least 300 feet in width and frontage on an existing public road. Ingress and egress easements of any type shall not be construed as public roads. These do not require platting, but shall be zoned for the appropriate use.

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

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

(Ord. passed 12-11-1979)

§ 154.12 EXCEPTIONS.

(A) The Planning Commission may recommend an exception to the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance. In granting an exception, the Commission shall prescribe any conditions that it deems necessary to or desirable for the protection of the public interest. In making its findings, as required herein below, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons who reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(B) No exception shall be granted unless the Planning Commission finds:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land. Metes and Bounds divisions of scattered sites is permitted at the discretion of the Planning Commission and must be consistent with other property divisions in the area;

(2) The exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and

(3) The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(Ord. passed 12-11-1979)

§ 154.13 REGISTERED LAND SURVEYS.

It is the intention of this chapter that all registered land surveys in the county shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Planning Commission shall first approve the arrangements, sizes and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so designated. Unless such approvals have been obtained from the Planning Commission, the County Board and the County Surveyor in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the county may refuse to take over tracts as streets or roads, or to improve, repair or maintain any such tracts unless so approved.

(Ord. passed 12-11-1979)

§ 154.14 CONVEYANCE BY METES AND BOUNDS FOR BUILDING DEVELOPMENT PURPOSES; LESS THAN FIVE ACRES.

(A) The regulations established by this section are for the purpose of providing for the reasonable regulation of conveyance by metes and bounds descriptions, thereby promoting greater efficiency in the county offices having responsibilities relating to the conveyance of land and to promote the purpose set forth in M.S. § 272.19, as it may be amended from time to time.

(B) No conveyance of land to which the regulations are applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 6-4-1971, or to an unapproved plan made after such regulations have become effective. The foregoing provision does not apply to a conveyance if the land described:

(1) Was a separate parcel of record on the date of adoption of subdivision regulations under M.S. §§ 394.21 to 394.37, as they may be amended from time to time;

(2) Was the subject of a written agreement to convey entered into prior to such time; or

(3) Was a separate parcel of not less than five acres and having a width of not less than 300 feet; and

(4) Has been zoned for a residential use and approved by the County Board and a conditional use permit approved by the Planning Commission.

(C) Building permits shall be withheld for buildings on tracts which have been subdivided and conveyed by the metes and bounds method, except as set out in division (B) above.

(D) The county and townships may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

(Ord. passed 12-11-1979)

§ 154.15 EFFECTIVE DATE.

This chapter was in full force and effect from and after its passage according to law.

(Ord. passed 12-11-1979)

DESIGN STANDARDS

§ 154.30 BLOCKS.

(A) *Block length.*

(1) In general, intersecting streets and roads, determining block length, 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 1,320 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 800 feet, pedestrian ways and/or easements through the block may be required near the center of the block.

(2) Blocks for business or industrial use should normally not exceed 600 feet in length.

(B) *Block width.* The width of the block shall be sufficient to allow two tiers of lots. 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 deliveries.

(Ord. passed 12-11-1979)

§ 154.31 LOTS.

(A) 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 Ch. 155 of this code of ordinances.

(B) Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by Ch. 155 of this code of ordinances.

(C) Side lines of lots shall be approximately at right angles to road or street lines or radial to curved road or street lines.

(D) 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 feet in order to allow space for screen planting along the back lot line.

(E) Every lot must have the minimum required frontage on a public dedicated road or street other than an alley, except in planned unit developments. On curvilinear streets, the required frontage may be measured at the building setback line.

(Ord. passed 12-11-1979)

§ 154.32 ROADS, HIGHWAYS, STREETS AND ALLEYS.

(A) The arrangement of highways shall conform as nearly as possible to the 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 runoff storm water, to public convenience and safety and in their appropriate relation in the proposed uses of the area to be served.

(B) Local roads and streets should be so planned as to discourage their use by non-local traffic. Dead-end streets and roads shall be prohibited, but cul-de-sacs or approved "Tee" will be permitted where topography or other conditions justify their use. Cul-de-sacs shall not be longer than 500 feet, including a terminal turn-around which shall be provided at the closed end, with an outside curb radius of at least 60 feet and a right-of-way radius of not less than 66 feet or an approved "Tee".

(C) 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.

(D) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

(E) 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 80 degrees. Road intersection jogs with an offset of less than 200 feet shall be avoided.

(F) Wherever the proposed subdivision contains or is adjacent to the right-of-way of a county, state or federal highway, provision shall be made for a marginal access street or road approximately parallel and adjacent to the boundary of such right-of-way, or for a road at a distance suitable for the appropriate use of land between such road and right-of-way. Such distance shall be determined with due consideration for the minimum distance required for approach connections to future grade separations, or for lot depths. In platted subdivisions, individual lots will have no direct access to any county, state or federal highway.

(G) Alleys shall be provided in commercial and industrial districts; except that, this requirement may be waived where other

definite and assured provisions are 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 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.

(H) 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.

(I) (1) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets, roads and highways shall be as shown in the County Comprehensive Plan, and where not shown therein, the minimum right-of-way width for streets, roads, highways, alleys or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

Arterial highways	
Alley	20 feet
Local streets and roads	66 feet
Marginal service access roads	50 feet
Minor arterial highway	100 feet
Pedestrian way	10 feet
Principal arterial highway	130 feet
Major intercity and regional highways	
Major intercity highway	150 feet

(2) Where the existing or anticipated traffic on major and minor arterial highways warrants greater widths of right-of-way, these shall be required. Right-of-way widths for major intercity highways shall also meet standards established by the state's Highway Department. Where any platted subdivision abuts a public road including a township road, right-of-way dedication from centerline of public road shall be provided in compliance with above schedule but in no case shall said dedication be less than 50 feet.

(3) No exclusion of roads wholly within subdivision.

(J) Minor street access to existing highways shall not be permitted at intervals of less than 600 feet.

(K) (1) The grades in all streets, roads, highways and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Arterial highways	
Alley	8%
Local streets and roads	8%

(2) In addition, there shall be a minimum grade on all roads and highways of not less than 0.5%.

(L) The horizontal and vertical alignment standards on all roads, highways and streets shall be as follows.

(1) *Horizontal, radii of centerline.*

Arterial highways	
Local streets and roads	100 feet
Minor arterial highways	As required by the state's Transportation Department
Principal arterial highways	As required by the state's Transportation Department
Major intercity highways	
Major intercity expressway	As required by the state's Transportation Department
Major intercity highways	As required by the state's Transportation Department
NOTES TO TABLE:	
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.	

(2) *Vertical, all changes in street grades shall be connected by vertical parabolic curves of such length as follows.*

Arterial highways	30 times the algebraic difference in the percent of grade of the 2 adjacent slopes
Local streets and roads	20 times the algebraic difference in the percent of grade of the 2 adjacent slopes
Major intercity highways	As required by the state's Transportation Department

(M) *Subdivision road cross-section requirements.*

(1) *Width.*

(a) All roads shall be subgraded to 32 feet minimum.

(b) Five ton aggregate base shall be consist of either:

1. Four inches of Class 5 on top of four inches of Class 3 or 4; or
2. Seven inches of Class 5.

(c) Bituminous surface two inches thick and 22 feet wide shall be completed at such time as 65% of the individual lots in the subdivision are sold.

(d) Road base shall be at standard immediately before blacktopping and approved by the County Engineer.

(2) *Structure of roads.*

(a) Five-ton aggregate base shall be applied first.

(b) A seven-ton roadway shall have a minimum two inches of bituminous.

(3) *Ditches.*

(a) Side slope shall be a minimum three to one.

(b) Ditch bottom shall have a width minimum of four feet.

(c) Ditch depth shall be two feet from shoulder at minimum.

(N) All proposed public streets or roads shall be offered for dedication as public right-of-way. Private street or roads shall not be permitted, except upon approval as part of a planned unit development or in other instances when specifically recommended by the County Planning Commission.

(Ord. passed 12-11-1979)

§ 154.33 EASEMENTS.

Easements shall not be used for road purposes. Ingress and egress easements of any type shall not be construed as public roads.

(A) An easement for utilities at least ten feet wide along the side line and/or rear line of lots where necessary shall be provided for a continuous right-of-way at least 20 feet in width. If necessary for the extension of main water and sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

(B) 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.

(C) Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall alongside lot lines.

(D) (1) Where a subdivision contains or is traversed by a watercourse, drainage way, channel, lake, stream or drainage field tile, one of the following shall be provided at the discretion of the Planning Commission:

- (a) A storm water easement;
- (b) Drainage right-of-way; or
- (c) Park dedication.

(2) These should conform to the lines of such water course along with such further width as will be adequate to provide for property storm drainage of the area. The width of such easement shall be recommended by the County Engineer.

(Ord. passed 12-11-1979)

§ 154.34 PUBLIC SITES AND OPEN SPACES.

(A) In subdividing land or re-subdividing an existing plat, due consideration shall be given to the subdivider and by the Planning Commission upon review, 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 public area partially or completely within a proposed subdivision, the area of said park or recreational area exceeds 7% of the total area of the subdivision, the preliminary plat of said subdivision shall show the proposed site as reserved and the county shall have one year from the date of approval of the preliminary plat by the Planning Commission in which to purchase said land which exceeds the said 7% of the said total area, or to initiate condemnation proceedings with respect thereto.

(B) In all subdivisions either 7% of the gross area of the subdivision or 10% of the raw land value shall be dedicated or paid to the county for public recreation and parks. The County Planning Commission and the County Board shall determine whether 7% of the gross area shall be dedicated or 10% of the raw land value paid. Said 7% of the total gross area of the subdivision shall be in addition to any dedication of streets, alleys and easements. The location of said dedications within the area of the subdivision shall be subject to the approval of the County Planning Commission and the County Board. The raw land market value shall be determined by the County Assessor's office.

(Ord. passed 12-11-1979)

§ 154.35 PRELIMINARY PLAT CONTENTS.

(A) *Contents.* The preliminary plat shall contain the following information:

(1) Proposed name and type of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions;

(2) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property;

(3) Names and addresses of the subdivider and the designer making the plat, and names and addresses of adjoining property owners within 500 feet;

(4) Graphic scale of plat, not less than one inch to 100 feet;

(5) Date and north point;

(6) Existing conditions:

(a) Location, width and name of each existing or platted street, road or other public open spaces, and permanent buildings, within or 200 feet adjacent to the proposed subdivision;

(b) All existing sewers, water mains, gas mains, culverts, power or communication cables, drainage tiles or other underground installations within the proposed subdivision or 200 feet adjacent thereto; and

(c) Waterways, ditches, ponds, marshes and floodable low lands in a plan which describe the existing conditions.

(7) Proposed development:

(a) The location and width of proposed streets, roads, alleys, pedestrian ways and easements. Typical road cross-section shall be provided showing grading within the right-of-way, traveled way width, type and thickness of surfacing proposed, base course thickness and type;

(b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines;

(c) Layout, numbers or letters and approximate dimensions of lots and the number of each block;

(d) Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation;

(e) Building setback lines with dimensions;

(f) Indication of any lots on which a use other than residential is proposed by the subdivider; and

(g) The zoning district, if any, on and adjacent to the tract.

(8) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings and an air photo at an approximate scale of one inch equals 1,000 feet of the area to be platted and one mile in each direction from the plat;

(9) Where lots to be platted are larger in area than 20,000 square feet or greater than 150 feet in width at the building setback line, public sewer and water facilities are unavailable and the plat is within one mile of a municipality in the county, a preliminary re-subdivision plan shall be prepared and submitted, showing a feasible method by which large lots may be re-subdivided in the future for higher density development in the event that public sewer and water facilities become available. The location of the principal structure on each lot shall be shown and building permits will only be issued for those structures which allow for economically feasible re-subdivision;

(10) Existing topography, as determined necessary by the County Zoning Administrator, including date of survey, with contour intervals of not less than two 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;

(11) (a) Two copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the centerline.

(b) Bridges shall be shown.

(c) A complete drainage plan shall be provided showing culvert locations with culvert sizes no less than 15 inches in diameter.

(d) All culverts shown in approaches to county and township roads will be provided by the developer. Approaches to individual lots shall meet the frontage roads on a positive grade.

(e) All ditches and slopes shall be seeded and other erosion control measures and devices provided where necessary as specified by the County Highway Engineer.

(12) Proposed surface drainage diagrams for lots in the form of arrows, proposed contours or other appropriate method.

(B) *Supplementary requirements.* Upon request of the Planning Commission, supplementary information shall be submitted; such supplementary information may include soil tests and reports, as specified by the County Engineer, by an approved soils laboratory.

(Ord. passed 12-11-1979)

§ 154.36 DATA REQUIRED ON FINAL PLATS.

The subdivider shall submit a final plat together with any necessary supplementary information.

(A) *Contents.* The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of M.S. Ch. 505, as it may be amended from time to time, and as required below:

- (1) Name of the subdivision shall not duplicate or too closely approximate the name of any existing subdivision;
- (2) Naming of all streets and thoroughfares to be in accordance with the county's street naming system;
- (3) The words "BLOCK ONE" to be spelled out on plats having only one block;
- (4) Lettering and numbering shown on the plat to be clear and legible;
- (5) Scale of the plat to be shown both graphically and in feet per inch;
- (6) The plat shall indicate which monuments were set and which monuments were found;
- (7) The basis of the bearings shown on the plat shall be given;
- (8) The boundaries of the plat shall be labeled as they are recited in the description;
- (9) Lines of different weight should be used on the exterior and the interior lines; and
- (10) All plats are to be of one standard size, 20 inches by 30 inches.

(B) *Certification required on final plats.* All signatures on each plat shall be written with black ink (not ball point).

(1) Notarized certification by owner and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas and easements. Statement dedicating streets, utility and drainage easements, and other public areas to be worded as follows:

... hereby donate and dedicate to the public for public use forever the streets, roads, alleys, drives, utility and drainage easements and other public areas as shown on the plat.

(2) Notarized certification by owner and by a registered land surveyor, to be worded as follows:

I, *(surveyor's name)* do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in M.S. § 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.
Dated this _____ day of _____, 20__.

(Print name of surveyor), Licensed Land Surveyor
Minnesota License No. _____

(3) Certification showing that all taxes due on the property have been paid in full:

Wright County Land Records
Pursuant to M.S. § 505.021, Subd. 9, taxes payable in the year 20__ on the land hereinbefore described have been paid. Also, pursuant to M.S. § 272.12, there are no delinquent taxes and transfer entered this __ day of _____, 20__.

By: _____

Wright County Land Records Administrator

(4) County Planning Commission:

WRIGHT COUNTY PLANNING COMMISSION
Be it known that at a meeting held on this _____ day of _____, 20__, the Planning Commission of the County of Wright, Minnesota, did hereby approve this plat of NAME OF PLAT.

Chairperson

(5) County Board of Commissioners:

WRIGHT COUNTY BOARD OF COMMISSIONERS
This plat of NAME OF PLAT was approved and accepted by the Board of County Commissioners of Wright County, Minnesota, at a meeting held this ____ day of _____, 20__.

Chairperson County Coordinator

(6) County Surveyor:

WRIGHT COUNTY SURVEYOR
I hereby certify that in accordance with M.S. § 505.021, Subd. 11, this plat has been reviewed and approved this ____ day of _____, 20__.

Wright County Surveyor

(7) County Highway Engineer:

WRIGHT COUNTY HIGHWAY ENGINEER
This plat was reviewed and recommended for approval this ____ day of _____, 20__.

Wright County Highway Engineer

(8) County Recorder:

WRIGHT COUNTY RECORDER
I hereby certify that this instrument was filed in the office of the County Recorder for record on this ____ day of _____, 20__, at ____ o'clock ____ M., and duly recorded in Cabinet No. _____, Sleeve _____, Document No. _____.

Wright County Recorder

(C) *Supplementary documents and information.* This may be required as follows:

- (1) A complete set of street profiles showing grade lines as constructed;
- (2) Copies of any private restrictions affecting the subdivision or any part thereof; and
- (3) Signature of municipal and township officials when such approval is required by law.

(D) *Filing.*

- (1) Ten copies of the final plat shall be filed with the Planning Commission.
- (2) One "official plat" and two copies on photomat stock with linen backing along with one copy on linen or Mylar reproducible shall be signed and filed as provided by law. Three paper copies shall be signed, one of which shall be sent to the township.
- (3) One copy of the plat, at a scale of one inch equals 200 feet shall be filed with the County Surveyor.
- (4) At least one print of the final plat shall be deposited with the County Auditor/Treasurer. This print shall contain the calculated square footage of acreage of all lots and outlots shown on the plat.

(Ord. passed 12-11-1979; Ord. 16-2, passed —; Ord. 21-2, passed 3-16-2021)

BASIC IMPROVEMENTS

§ 154.50 GENERAL.

(A) Before a final plat is approved by the County Board, the subdivider of the land covered by the said plat shall execute and submit to the County Board an agreement, which shall be binding on his or their heirs, personal representatives and assigns, that he or she will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this chapter have been made or arranged for in the manner following as respects the highways, roads or streets to which the lots sought to be constructed have access.

(B) (1) *Agreement.*

(a) Prior to the installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the county requiring the subdivider to furnish and contract said improvements at his or her sole cost and in accordance with plans and specifications and usual contract conditions. The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond acceptable to the County Attorney, the amount of the deposit or penal amount of the bond to be equal to 150% of the engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to the acceptance of the final plat. In such event, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the final plat. The time for completion of the work and several parts thereof shall be determined by the County Planning Commission upon recommendation of the engineer after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year and proper correlation with construction activities in the plat and subdivision.

(b) No subdivider shall be permitted to start work on any other subdivision without approval of the County Planning Commission if he or she has previously defaulted on work or commitments.

(2) *Financial guarantee.*

(a) The contract provided for in division (B)(1) above shall require the subdivider to make an escrow deposit, or in lieu thereof, furnish a performance bond. The escrow deposit or performance bond shall conform to the requirements of this regulation.

(b) An escrow deposit shall be made with the County Auditor/Treasurer in a sum equal to 150% of the total cost as estimated by the County Engineer of all improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to the approval of the final plat. The total costs shall include costs of inspection by the county. The county shall be

entitled to reimburse itself out of said deposit for any cost and expenses incurred by the county for completion of the work in case of default of the subdivider under said contract, and for any damages sustained on account of any breach thereof. Upon completion of the work and the liability, the balance remaining of said deposit shall be refunded to the subdivider.

(c) In lieu of making the escrow deposits, the subdivider may furnish a performance bond with corporate surety, in a penalty sum equal to 150% of the total cost as estimated by the County Engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to the approval of the final plat. The total cost shall include costs of inspection by the county. The bond shall be approved as to form by the County Attorney and filed with the County Auditor/Treasurer.

(C) No final plat shall be approved by the County Board until the Board is satisfied 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.

(D) No final plat shall be approved by the County Board on land subject to flooding or containing poor drainage facilities and on land which would make adequate drainage of streets, roads and lots impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the County Board, make the area suitable for use without interfering with the flow of

water under flood conditions, the final plat of the subdivision may be approved.

(E) All of the required improvements to be installed under the provisions of this chapter shall be inspected during the course of the construction by an agent of the County Board. All of the inspection costs pursuant thereto shall be paid by the subdivider in the manner prescribed in division (B) above.

(Ord. passed 12-11-1979)

§ 154.51 ROAD AND HIGHWAY IMPROVEMENTS.

(A) 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 Board.

(B) Unless the township wherein a plat is located requests that no paving be provided and the County Board accepts the township recommendations, 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.

(C) Curb and gutter shall be constructed as required by the standards and specifications for road construction as approved by the County Board.

(D) Storm sewers, culverts, storm water inlets and other drainage facilities will be required where they are necessary to ensure adequate storm water drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for road construction as approved by the County Board.

(E) Road signs of the standard design approved by the County Board shall be installed at each street or road intersection.

(F) (1) The number and types of access drives onto major streets shall be controlled and limited in the interest of public safety and efficient traffic flow.

(2) Access drives onto county roads shall require a permit from the County Engineer. This permit shall be acquired prior to the issuance of any building permits. The County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The County Engineer may refer the request for an access drive permit onto a county road to the Planning Commission for its comment.

(Ord. passed 12-11-1979)

§ 154.52 SANITARY SEWER AND WATER DISTRIBUTION IMPROVEMENTS.

(A) Sanitary sewers, both public and private, shall be installed as required by standards and specifications as approved by the County Board.

(B) Water facilities, both public and private, including pipe fittings, hydrants and the like shall be installed as required by standards and specifications as approved by the County Board.

(Ord. passed 12-11-1979)

§ 154.53 PUBLIC UTILITIES.

(A) All utility lines where feasible, for telephone and electric service, shall be placed in rear line easements when carried on overhead poles.

(B) Where telephone, 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.

(Ord. passed 12-11-1979)

§ 154.99 PENALTY.

(A) *Sale of lots from unrecorded plats.* It shall be unlawful to sell, trade or offer to sell, trade or otherwise convey, any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this chapter unless said plan, plat or replat shall have first been recorded in the office of the County Recorder.

(B) *Receiving and recording unapproved plats.* It shall be unlawful to receive or record in any public office any plans, plats or replats of 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 purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and the County Board.

(C) *Misrepresentation as to construction, supervision or inspection of improvements.* It shall be unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the county to represent that any improvement upon any of the highways, roads, streets or alleys of said addition or subdivision or any sewer 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.

(D) *Penalty.* Anyone violating any of the provisions of this chapter shall be guilty of an offense punishable by a fine of not more than \$500 and/or by a commitment to jail for a period of not to exceed 90 days. Each day during which compliance is

delayed shall constitute a separate offense.

(Ord. passed 12-11-1979)

CHAPTER 155: ZONING

Section

General Provisions

- 155.001 Title
- 155.002 Intent and purpose
- 155.003 Rules and definitions
- 155.004 Application
- 155.005 Separability
- 155.006 Lot coverage
- 155.007 Lots of record
- 155.008 Non-conforming uses
- 155.009 Zoning coordination
- 155.010 Zoning and the policies plan
- 155.011 Substandard uses
- 155.012 Supremacy
- 155.013 Effective date

Administration

- 155.025 Zoning Administrator
- 155.026 Appeals and the Board of Adjustment
- 155.027 Planning Commission
- 155.028 Zoning amendments
- 155.029 Conditional use permits
- 155.030 Permits and fees

Zoning Districts and District Provisions

- 155.045 Zoning districts
- 155.046 Zoning map
- 155.047 Agricultural/Residential (A/R)
- 155.048 General Agricultural (AG)
- 155.049 Urban/Rural Transition (R-1)
- 155.050 Suburban Residential (R-2)
- 155.051 Suburban Residential (R-2a)
- 155.052 Multiple-family Urban District (R-3)
- 155.053 Highway Business District (B-1)
- 155.054 General Business District (B-2)
- 155.055 General Industry District (I-1)
- 155.056 Floodplain Overlay District (FP)
- 155.057 Shoreland zoning regulations
- 155.058 Wild and Scenic River District (W)
- 155.059 Planned unit development

Performance Standards

- 155.075 Purpose
- 155.076 Exterior storage
- 155.077 Refuse
- 155.078 Screening and fences
- 155.079 Landscaping maintenance
- 155.080 Glare
- 155.081 Parking
- 155.082 Traffic control
- 155.083 Trees and woodland preservation
- 155.084 Soil erosion and sediment control
- 155.085 Explosives
- 155.086 Guest house
- 155.087 Drive-in business development standards
- 155.088 Nuisances
- 155.089 Auto service stations
- 155.090 Sewage and wastewater treatment and disposal standards
- 155.091 Dwelling units prohibited
- 155.092 Relocation of structures
- 155.093 Vacated streets
- 155.094 Permitted encroachments
- 155.095 Access drives and access
- 155.096 Irrigation systems
- 155.097 Sign regulations
- 155.098 Essential services
- 155.099 Mobile home parks
- 155.100 Mining and extraction
- 155.101 Land alterations
- 155.102 Single-family dwelling standards
- 155.103 Rules and definition of home extended business
- 155.104 Performance standards for retreat centers
- 155.105 Farmland preservation property tax credit program
- 155.106 Antennas and support structures
- 155.107 Wind energy conversion systems
- 155.108 Solar energy farms and solar energy systems
- 155.109 Commercial agricultural tourism
- 155.110 Public schools
- 155.111 Treatment and recovery facilities

Adult Uses

- 155.135 Adult Uses Overlay District (AU)
- 155.136 Adult uses licensing and performance standards

- 155.999 Penalty

GENERAL PROVISIONS

§ 155.001 TITLE.

This chapter, which is the 1978 amendment to the County Zoning Ordinance, shall be known, cited and referred to as the "Wright County Zoning Ordinance" and may be referred to herein as "this chapter".

§ 155.002 INTENT AND PURPOSE.

This chapter is adopted for the purpose of:

- (A) Protecting the public health, safety, morals, comfort, convenience and general welfare;
- (B) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- (C) Conserving the natural and scenic beauty and attractiveness of the community;
- (D) Conserving and developing natural resources;
- (E) Providing for the compatibility of different land uses and the most appropriate use of land throughout the community; and
- (F) Protect agricultural area.

§ 155.003 RULES AND DEFINITIONS.

(A) *Rules.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction.

- (1) The singular number includes the plural and the plural the singular.
- (2) The present tense includes the past and future tenses, and the future the present.
- (3) The word "shall" is mandatory, and the word "may" is permissive.
- (4) The masculine gender includes the feminine and neuter genders.
- (5) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be constructed as set forth in such definition.
- (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (7) In the event of conflicting provisions within this chapter, the more restrictive provision shall apply.

(B) *Definitions.* For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

(1) **ACCESSORY USE OR STRUCTURE.** A use or structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto. Detached accessory structures and garages on lots less than one acre shall not have a second story, must have no more than six feet of headroom in a rafter storage area, and have a maximum 6/12 roof pitch. **ACCESSORY BUILDINGS AND STRUCTURES,** individually and combined (not to include attached garages nor decks), on residential parcels smaller than ten acres in size shall not exceed the following maximum size limits.

Parcel Size	Max. Building Area	Max. Sidewall
Less than 20,000 sq. ft.	1,000 square feet	14 feet
20,000 sq. ft. - 0.99 acres	1,600 square feet	14 feet
1 - 2.49 acres	2,400 square feet	14 feet
2.5 - 4.99 acres	3,200 square feet	14 feet
5 - 9.99 acres	4,000 square feet	16 feet
* Parcels classified as public lands are exempt from the maximum size limits stated herein.		

(2) **ACCESS DRIVE (DRIVEWAY).** An improved area of any lot or parcel which is used for vehicular access or parking. Drives improved solely with gravel or rock materials will not be used to calculate lot coverage areas; any paved (bituminous, concrete and the like) area shall be counted as impervious surfaces.

(3) **ADDITION, BUILDING.** Any construction that expands the footprint, livable space or volume of a building, such as a porch, basement, an additional level or floor, attached garage, carport, new room or roof pitch or wall height change.

(4) **ADMINISTRATOR.** The duly appointed person charged with enforcement of this chapter.

(5) **AGRICULTURAL USE.** The use of land for the growing and/or production of field crops, livestock and livestock products for the production of income including, but not limited to, the following:

- (a) Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum and sunflowers;
- (b) Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including ponies, deer, rabbits and mink; and
- (c) Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
- (6) **AIRPORT or HELIPORT.** Any land or structure which is used or intended for use for the landing and take-off of aircraft, and for appurtenant land or structure used or intended for use for port buildings or other port structures of rights-of-way.
- (7) **ANIMAL UNIT.** A unit of measure used to compare differences in the production of animal wastes which has as a standard the amount of waste produced on a regular basis by a slaughter steer or heifer. For purposes of this chapter, the definition and units of measure contained in Minn. Rules part 7020.0300, subpart 5, shall apply.
- (8) **APARTMENT.** A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or group of individuals living together as a single family unit. This includes any units in buildings with more than two dwelling units.
- (9) **AUTO OR MOTOR VEHICLE REDUCTION YARD.** A lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment. (See also **JUNK YARD.**)
- (10) **BASEMENT.** A portion of a building located partly underground, but having one-half or more of its floor-to-ceiling height below the average grade of the adjoining ground. For floodplain regulatory purposes, **BASEMENT** shall include any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (11) **BED AND BREAKFAST.** A single-family dwelling with furnished bedrooms provided to guests, at which meals may be served to guests by the permanent residents, which is kept, used or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to guests for transient occupancy as defined in M.S. §327.70, subd. 5, as it may be amended from time to time, but in no case shall continuous occupancy exceed 30 days. There shall be offered for guests no more than four bedroom units per single family dwelling, accommodating not more than two adult persons per unit. One guesthouse, as defined in § 155.086 of this chapter, located on the same property, may be used as one of the permitted four units for an approved **BED AND BREAKFAST**; provided that, the residence on the property does include at least one unit.
- (12) **BLUFF.** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of a **BLUFF**):
- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the water body;
- (c) 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 30% or greater; and
- (d) The slope drains toward the water body.
- (13) **BLUFF IMPACT ZONE.** A bluff and land located within 20 feet from the top of a bluff.
- (14) **BLUFFLINE.** A line along the top of a slope connecting the points at which the slope becomes less than 13%. This applies to those slopes within the land use district(s) which are beyond the setback provisions from the ordinary high water mark.
- (15) **BOARDINGHOUSE (ROOMING OR LODGING HOUSE).** A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for three or more persons, but not to exceed 20 persons.
- (16) **BOATHOUSE.** A one-story structure not to exceed ten feet in height, exclusive of safety railing, designed and used solely for the storage of boats or boating equipment, the top of which may be used as an open deck with safety railings. A **BOATHOUSE** shall not be allowed to serve as living quarters and shall not contain sanitary facilities.
- (17) **BUILDING.** Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate **BUILDING**.
- (18) **BUILDING CODE.** Minnesota State Building Code as adopted by the county.
- (19) **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.
- (20) **BUILDING SETBACK.** The minimum horizontal distance between the building and a lot line.
- (21) **BUSINESS.** Any occupation, employment or enterprise wherein merchandise is exhibited, stored, sold or where services are offered for compensation.
- (22) **CARPOR.** An automobile shelter having one or more sides open.

(23) **CHURCH.** A building and uses, where persons regularly assemble for religious worship and which building, and uses, is maintained and controlled by a religious body organized to sustain public worship.

(24) **CLEAR-CUTTING.** "Intensive vegetative clearing" including the complete removal of trees or shrubs in a contiguous patch, strip, row or block.

(25) **COMMERCIAL AGRICULTURAL TOURISM.** A rural commercial operation that is connected to a primary agricultural use and may include orchards, wineries, the promotion of agriculture or the natural environment, or the use of the rural outdoor environment for events such as weddings and gatherings. **COMMERCIAL AGRICULTURAL TOURISM** may allow for the construction of accessory structures to be used for events and special gatherings of people to be held within such structures. Food catering and limited food preparation, along with limited retail that is directly associated with the **COMMERCIAL AGRICULTURAL TOURISM** use may be allowed.

(26) **COMMISSIONER.** Commissioner of Department of Natural Resources.

(27) **COMMUNITY WATER AND SEWER SYSTEMS.** Utilities systems serving a group of buildings, lot or any area of the community, with the design and construction of such utility systems as approved by the community and the state.

(28) **COMPREHENSIVE PLAN** or **POLICIES 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 state's County Planning Act, M.S. Ch. 364, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

(29) **CONDITIONAL USE.** A use classified as conditional generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or abnormal traffic congestion.

(30) **CONTRACTORS YARD, NON-COMMERCIAL.** Buildings and structures, including limited outdoor storage, located on the homestead of a contractor in the building trades or other similar business, for the purpose of storing machinery and equipment related to the business which is primarily conducted off-site. All storage and screening requirements in §§ 155.076 through 155.079 of this chapter must be met, all building size requirements must be met and the use must be clearly incidental to the primary use of the property as a homestead. (Pre-existing yards will not be required to obtain a conditional use permit; provided, all ordinance requirements are met.)

(31) **COUNTY BOARD.** Wright County Board of Commissioners

(32) **CURB LEVEL.** The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a **CURB LEVEL** or its equivalent for the purpose of this chapter.

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

(34) **DRIVE-IN.** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.

(35) **DUPLEX.** A detached residential building containing two dwelling units.

(36) **DWELLING UNIT.** A residential building or portion thereof intended for occupancy by a single-family, but not including hotels, motels, boarding or rooming houses or tourist homes.

(37) **DWELLING ATTACHED.** A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

(38) **DWELLING DETACHED.** A dwelling which is entirely surrounded by open space on the same lot.

(39) **EASEMENT.** A grant by a property owner for the use of a strip of land by the public or for any person for any specific purpose or purposes but not for purposes of ingress and egress to residential areas.

(40) **EQUAL DEGREE 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 flow.

(41) **ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground or overhead telephone, gas, electrical, communication, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, switches, civil defense sirens, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment, appurtenances, facilities, and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Antennas and support structures as defined in § 155.106 of this chapter shall not be considered an **ESSENTIAL SERVICE**.

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

(43) **EXTRACTION AREA.** Any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area or two feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining of the earth.

(44) **FAMILY.** An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

(45) **FARM.** A tract of land, ten acres or more in size, which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such **FARM** may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

(46) **FARM ACCESSORY MOBILE HOME OR STRUCTURE.** A mobile home or structure with livable area placed on a farm which already has a primary residence on the same parcel or nearby land under the same homestead, said mobile home or structure to be used as a temporary residence by a family member or farm employee. Farm employment must be the primary occupation of the resident of the mobile home or structure, and the applicant for such a mobile home or structure must demonstrate the need for such occupant to be located on the farm site in addition to the primary farm residence. No such mobile home or structure shall be allowed as the primary or only residence on any parcel. Any structure with livable area must share access with the primary farm residence or the farm operation and shall be within 750 feet of the primary farm residence or the farm operation.

(47) **FEED LOTS, LIVESTOCK.** The place of confined feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

(48) **FENCE.** A fence is defined for the purpose of this chapter as any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or along the required yard.

(49) **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.

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

(51) **FLOOD FRINGE.** The portion of the floodplain outside of the floodway.

(52) **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.

(53) **FLOOD-PROOFING.** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

(54) **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.

(56) **FLOOR AREA.** The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the **FLOOR AREA** shall not include: basement floor area other than area devoted to retailing activities; the production of processing of goods; or to business or professional offices.

(57) **FLOOR AREA RATIO.** The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.

(58) **FLOOR PLAN.** A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

(59) **FOREST LAND CONVERSION.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand, not to include normal clearing for permitted or conditional uses.

(60) **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 woodroads, skidways, landings and fences.

(61) **FRONTAGE.** The boundary of a lot which abuts an existing or dedicated public street.

(62) **GARAGE, PRIVATE.** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

(63) **GOVERNING BODY.** The Wright County Board.

(64) **HARDSHIP.** The same as that term is defined in M.S. Ch. 394 (for counties), as it may be amended from time to time.

(65) **HEIGHT OF BUILDING.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of any roof.

(66) **HIGHWAY.** Any public thoroughfare or vehicular right-of-way with a federal or state numerical route designation; any public thoroughfare or vehicular right-of-way with a county numerical route designation.

(67) **HOME OCCUPATION.** Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or exhibit any exterior evidence of such secondary use. Such **OCCUPATION** shall be conducted or carried on only by the person residing on the premises.

(68) **HORTICULTURE.** Horticultural uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

(69) **HOTEL.** A building which provides a common entrance, lobby, halls and stairway and in which 20 or more people are, for compensation, lodged with or without meals.

(70) **IMPERVIOUS SURFACE.** Any surface that is incapable of being penetrated by water and thereby restricts percolation of water into the ground or does not maintain a vegetative cover. **IMPERVIOUS SURFACES** include, but are not limited to, the footprint of all structures or buildings, decks, stairways, lifts and landings, patios, sidewalks and all driving and parking areas. Any overhangs or cantilevers that extend more than 24 inches from the foundation shall be included in this calculation.

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

(72) **JUNK YARD.** An open area where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A **JUNK YARD** includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

(73) **KENNEL.** Any structure or premises on which four or more dogs over four months of age are kept for pets, sale, breeding, profit and the like.

(74) **LANDSCAPING.** Planting such as trees, grass and shrubs.

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

(76) **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 **LODGING ROOM**.

(77) **LOT.** A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

(78) **LOT AREA.** The area of a lot in a horizontal plane bounded by the lot lines. Only land above the ordinary high water level can be used to meet **LOT AREA** standards.

(79) **LOT OF RECORD.** Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of any auditor's subdivision or a registered land survey that has been recorded in the office of the County Recorder, prior to the effective date of this chapter. **LOT OF RECORD** shall also include parcels of land for which a deed or contract for deed has been recorded in the office of the County Recorder prior to 8-2-1978; provided that said parcel or parcels were legally created in accord with ordinances in effect at the time the deed or contract was recorded.

(80) **LOT, CORNER.** A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

(81) **LOT DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot.

(82) **LOT LINE.** The property line bounding a lot; except that, where any portion of a lot extends into the public right-of-way shall be the lot line for applying this chapter.

(83) **LOT LINE FRONT.** The boundary of a lot which abuts an existing or dedicated public street and, in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the **FRONT LOT LINE** shall be designated by the owner and filed with the County Recorder.

(84) **LOT LINE REAR.** The boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length or, if the lot forms a point at the rear, the **REAR LOT LINE** shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(85) **LOT LINE SIDE.** Any boundary of a lot which is not a front lot line or a rear lot line.

(86) **LOT SUBSTANDARD.** A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this chapter.

(87) **LOT, THROUGH.** A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a **THROUGH LOT**, both street lines shall be front lot lines for applying this chapter.

(88) **LOT WIDTH.** The minimum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth. The lot width shall determine the required road frontage and shoreline frontage for lots.

(89) **MAINTENANCE.** The normal upkeep of a structure including the replacement of windows, siding, external roof surfaces or exterior finish, such as paint or stain.

(90) **MANUFACTURED HOME.** A structure manufactured in accord with the Manufactured Home Building Code as defined in M.S. Ch. 327B, as it may be amended from time to time, and meeting the definition in M.S. Ch. 327B, as it may be amended from time to time. For the purpose of this chapter, **MANUFACTURED HOMES** which comply with the standards listed in §155.102 of this chapter shall be considered to be single-family dwellings.

(91) **METES AND BOUNDS.** A method of property description by means of their direction and distance from an easily identifiable point.

(92) **MINING.** The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site shall be **MINING**. The only exclusion from this definition shall be removal of minerals associated with construction of a building provided such removal is an approved item in the building permit.

(93) **MOBILE HOME.** For the purposes of this chapter, any manufactured home, as defined above, which does not meet the standards in § 155.102 of this chapter. **MOBILE HOMES** to be used for residential purposes must have a minimum floor area of 800 square feet on the main floor. Structures which do not meet these minimum standards shall not be permitted for residential purposes, except when located within legally established mobile home parks.

(94) **MOBILE HOME PARK.** Any site, lot, field or tract of land under single ownership designed, maintained or intended for the placement of two or more occupied mobile homes. **MOBILE HOME PARK** shall include any buildings, structure, vehicle or enclosure intended for use as part of the equipment of such mobile home park.

(95) **MOBILE HOME STAND.** The part of an individual mobile home lot which has been reserved for placement of the mobile home, appurtenant structures or additions.

(96) **MOTEL (TOURIST COURT).** A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

- (97) **MULTIPLE RESIDENCE (APARTMENT BUILDING).** Three or more dwelling units in one structure.
- (98) **NEW CONSTRUCTION.** Any structural alteration to a building that exceeds 50% of the value of the structure or 50% of the footprint, whichever is more restrictive, shall be considered **NEW CONSTRUCTION**. The value is to be determined by calculating the square footage value based on the construction value worksheet used by the county at the time.
- (99) **NURSERY, LANDSCAPE.** A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.
- (100) **NURSING HOME.** A building with facilities for the care of children, the aged, infirm or place of rest for those suffering bodily disorder. Said **NURSING HOME** shall be licensed by the state's Board of Health as provided for in M.S. § 144.50, as it may be amended from time to time.
- (101) **OBSTRUCTION (FLOODPLAIN).** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- (102) **OFFICIAL MAP.** The map established by the governing body, in accordance with state statutes, showing streets, highways, parks and drainage, both existing and proposed.
- (103) **OFF-STREET LOADING SPACE.** 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 vehicle of the type used in the particular business.
- (104) **OPEN SALES LOT (EXTERIOR STORAGE).** Any land used or occupied for the purpose of buying and selling any goods, materials or merchandise and for the storing of same under the open sky prior to sale.
- (105) **OPEN SPACE USE.** A use oriented to and utilizing the outdoor, unimproved, natural character of an area; including trails, primitive campsites, waysides, parks and general recreation uses.
- (106) **ORDINARY HIGH WATER LEVEL.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The **ORDINARY HIGH WATER MARK** is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the **ORDINARY HIGH WATER MARK** is not evident, setbacks shall be measured from the top of the stream bank of the following water bodies that have permanent flow or open water: the main channel; adjoining side channels; backwaters; and sloughs.
- (107) **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 a standard automobile.
- (108) **PEDESTRIAN WAY.** A public or private right-of-way across or within a block, to be used by pedestrians.
- (109) **PLANNED UNIT DEVELOPMENT.** An urban development having two or more principal uses or structures on a single lot and developed according to any approved plan. Where appropriate, this development control advocates:
- (a) A mixture of land uses, one or more of the non-residential uses being regional in nature;
 - (b) The clustering of residential land uses providing common and public open space, the former to be maintained either by the residents of the development or the local community; and
 - (c) Increased administrative discretion to a local professional planning staff and the setting aside of present land use regulations and rigid plat approval processes.
- (110) **PLANNING COMMISSION.** The Planning Commission of the county, except when otherwise designated.
- (111) **PRINCIPAL STRUCTURE OR USE.** One which determines the predominant use as contrasted to accessory use or structure. Only one principal structure or use shall be permitted per lot, except as expressly permitted elsewhere in this chapter.
- (112) **PROPERTY LINE.**
- (a) The more restrictive of either the legal boundaries of a parcel of property, or a right-of-way line of a road, cartway and the like, including a zoning district boundary line. For zoning purposes, **PROPERTY LINE** is unaffected by change in property ownership, including the common ownership of adjacent parcels of property, lots, lot lines or lots of record.
 - (b) Non-conforming lots of record in the same zoning district that are owned by the same entity may be combined for residential purposes by order of the Zoning Administrator.
- (113) **PROTECTIVE COVENANT.** A contract in readable form entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
- (114) **PUBLIC LAND.** Land owned or operated by municipal, school district, county, state or other governmental units.
- (115) **PUBLIC WATERS.** Any waters as defined in M.S. § 103G.005, as they may be amended from time to time.
- (116) **REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or human-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a **REACH**.

(117) **RECREATION, PUBLIC.** Includes all uses such as tennis courts, ball fields, picnic areas and the like that are commonly provided for the public at parks, playgrounds, community centers and other sites owned and operated by a unit of government for the purpose of providing recreation.

(118) **RECREATION, COMMERCIAL.** Includes all uses such as bowling alleys, driving ranges and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

(119) **RECREATION, COMMERCIAL OUTDOOR.** Commercial recreation which requires large land areas or location in a rural setting such as golf courses, driving ranges, flea markets, shooting ranges and the like, but not to include campgrounds, nor recreational vehicle camps.

(120) **RECREATION EQUIPMENT.** Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools or sheds utilized for storage of equipment.

(121) **RECLAMATION LAND.** The improvement of land by deposition movement of material to elevate the grade. Any parcel upon which 500 cubic yards or more of fill are deposited (50 cubic yards in shoreland areas) shall be considered as **RECLAIMED LAND.**

(122) **REGISTERED LAND SURVEY.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract of tracts of a registered land survey number. See M.S. § 508.47, as it may be amended from time to time.

(123) **REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in the flood insurance study.

(124) **REGULATORY FLOOD PROTECTION ELEVATION.** A point not less than one foot above the water surface profile associated with the regional flood, plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this chapter are required to be elevated or flood-proofed.

(125) **REMODEL.** An alteration of the interior or exterior portion of the existing structure to include work performed on the interior of a structure (provided, the work performed does not increase the number of bedrooms or increase water usage), maintenance and adding windows and doors. Under no circumstances shall **REMODELING** constitute the replacement of the main structural frame, walls or changes in the exterior dimensions of the structure.

(126) **RETREAT CENTER.** A semipublic use oriented to using the natural features and outdoor character of the area for short-term stays and featuring educational, contemplative and human development workshop and related training activities, which may include the following: religious worship and workshops; passive recreation (non-motorized) oriented to appreciating the outdoor and natural character of the area; a nature center, conservatory, interpretive center, exhibit, museum or library space; residential buildings (cabins) for short-term occupancy by a single family or unrelated individuals attending an educational or similar event or workshop at the retreat (but not designed or intended for use as a residence); and/or having limited communal facilities for dining, sanitation, meeting, educational or worship purposes.

(127) **RIDING ACADEMIES.** Includes stables and riding facilities, both outdoor and indoor, operated as a commercial recreation use with the intention of earning a profit by providing entertainment for the public.

(128) **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, lane, place or however other designated. Ingress and egress easements shall not be considered **ROADS.**

(129) **SCHOOL.** As defined within M.S. §120.05, as it may be amended from time to time, and M.S. § 123B.41, subd. 9 and 10, as they may be amended from time to time.

(130) **SEASONAL STORAGE.** The use of an accessory building for the purposes of renting or leasing indoor storage space for the storing and removal of personal property, where the facility is open to the public in the spring and fall on a limited seasonal basis. A conditional use permit for seasonal storage shall be required for such use. The accessory structure must meet all requirements of the Minnesota State Building Code. Outdoor storage shall be prohibited.

(131) **SELECTIVE CUTTING.** The removal of single scattered trees.

(132) **SEMI-PUBLIC USE.** The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

(133) **SENSITIVE RESOURCE MANAGEMENT.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

(134) **SETBACK.** The minimum required horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other regulated facility.

(135) **SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 155.090 of this chapter.

(136) **SEWAGE TREATMENT SYSTEM, PUBLIC.** A system owned and operated by a city, township, county or other governmental entity recognized by state statute, including the sewage treatment plant, and all pipelines or conduits, pumping

stations, force main and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to the treatment plant. This definition does not include cluster systems, nor any ISTS as defined by MPCA regulations, nor any privately owned and operated sewage treatment systems.

(137) **SEWER SYSTEM.** Pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of treatment.

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

(139) **SHORELAND.**

(a) Land located within the following distances from public waters.

1. One thousand feet from the normal high water mark of a lake, pond, flowage; and
2. Three hundred feet from a river or stream or the landward extend of a floodplain designated by ordinance on such river or stream, whichever is greater.

(b) The practical limits of **SHORELANDS** may be less whenever the waters involved are bounded by natural topographic divides which extend landward from the water for less distances and when approved by the Commissioner.

(140) **SIDEWALL HEIGHT.** The vertical distance between the lowest exposed floor and the point where the wall meets the roof truss. "Tuck-under" garages may be allowed provided only one wall is more than 25% exposed and the exposed wall is no more than twice the allowable **SIDEWALL HEIGHT**.

(141) **SIGN.** Any structure or device that has a visual display that is visible from a public right-of-way and is designed to identify, announce, direct, or inform.

(142) **SIGN, DYNAMIC.** Any sign with a characteristic that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the sign face or its components. This definition includes a display that incorporates a technology or method allowing the sign face to change the image without having to replace the sign face or its components physically or mechanically. This definition also includes any rotating, revolving, moving, flashing, blinking, or animated graphic or illumination, and any graphic that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

(143) **SIGN, FLASHING.** Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

(144) **SIGN, ILLUMINATED.** Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

(145) **SIGN, ROTATING.** A sign which revolves or rotates on its axis by mechanical means.

(146) **SIGN, SURFACE AREA OF.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits such sign and not forming an integral part of the display. Only one side of a double-faced or V-type sign structure shall be used in computing total **SURFACE AREA**.

(147) **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's Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. §307.08, as it may be amended from time to time. 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 state's archaeologist or the director of the state's Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

(148) **SINGLE-FAMILY DWELLING.** A detached permanent structure, designed for use by one family only, which contains at least one story with a floor area of at least 800 square feet and is constructed in accord with all applicable codes and ordinances in the county. Mobile homes are not considered as permitted **SINGLE DWELLINGS**, except as expressly permitted elsewhere in this chapter.

(149) **SOLAR ENERGY FARMS.** A solar array composed of multiple solar panels on ground-mounted rack or poles which are the primary land use for the parcel on which it is located and is greater than 100 kilowatts direct current (DC) rated capacity.

(150) **SOLAR ENERGY SYSTEMS.** A solar panel or array mounted on a building, pole or rack that is secondary to the primary use of the parcel on which it is located and is 100 kilowatts direct current (DC) rated capacity and under.

(151) **SPECIAL PROTECTION.** A zoned area, the purpose of which is to manage areas unsuitable for development.

(152) **STEEP SLOPE.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, **STEEP SLOPES** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

(153) **STREET.** A public right-of-way which afford's primary means of access to abutting property, and shall also include avenue, highway, road or way.

(154) **STREET, COLLECTOR.** A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.

(155) **STREET, MAJOR OR THOROUGHFARE.** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

(156) **STREET, LOCAL.** A street intended to serve primarily as access to abutting properties.

(157) **STREET PAVEMENT.** The wearing or exposed surface of the roadway used by vehicular traffic.

(158) **STREET WIDTH.** The width of the right-of-way, measured at right angles to the centerline of the street.

(159) **STORY.** The portion of a building included between the surface of any floor and the surface of the floor next above. For the purpose of height regulations, a basement shall not be counted as a **STORY**.

(160) **STRUCTURE.** Anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground. Construction of a building or structure on skids or other non-permanent fixture shall not obviate the requirement for a building permit or compliance with setback standards in this chapter.

(161) **STRUCTURAL ALTERATION.** Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

(162) **SUBDIVISION.** The dividing of any parcel of land into two or more parcels.

(a) **PLATTED SUBDIVISION.** If any resultant parcel is less than five acres in area and less than 300 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels must be platted in accordance with the terms and procedure of Ch. 155 of this code of ordinances.

(b) **UNPLATTED SUBDIVISION.** A division of any parcel of land into two or more parts where in all parts are at least five acres and at least 300 feet in width and have frontage on an existing public road. Ingress and egress easements of any type shall not be construed as public roads. These do not require platting, but shall be zoned for the appropriate use.

(163) **SUBDIVISION MOBILE HOME.** A subdivision containing a minimum of ten lots, allowing both conventional homes and mobile homes. Existing subdivisions containing a minimum of 30% mobile homes, shall be defined as **MOBILE HOME SUBDIVISIONS**. The creation of new mobile home subdivisions is prohibited.

(164) **SURFACE WATER-ORIENTED COMMERCIAL USE.** As defined by Minn. Rules part 6120.2500, subpart 18a.

(165) **TRAVEL TRAILER/PARK TRAILER.** A trailer mounted on wheels which is designed to provide temporary living quarters during recreation, camping or travel, does not require a special highway moving permit based on its size or weight when towed by a motor vehicle, and is less than 40 feet in length (including hitches) and less than 102 inches in width. A **PARK TRAILER** is a travel trailer which is 102 inches or more in width, and no larger than 400 square feet when any collapsible components or additions are fully extended. Any trailer larger than these dimensions shall be considered to be a mobile home. (See § 155.091 of this chapter for trailer regulations.)

(165A) **TREATMENT AND RECOVERY FACILITY.** A use in which clients reside 24 hours per day under the care and supervision of a chemical dependency treatment or recovery program overseen by a staff member with a state-issued professional license in mental health or chemical dependency. The operator of the facility must be affiliated with a chemical dependency treatment provider licensed according to M.S. Ch. 245G, or certified according to Minn. Rules, parts 2960.045 to 2960.0490. Treatment and recovery facilities shall not include facilities that are also eligible for licensure or certification by the Minnesota Department of Corrections.

(166) **TOE OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the **TOE OF THE BLUFF** shall be the lower end of a 50-foot segment with an average slope exceeding 18%.

(167) **TOP OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the **TOP OF THE BLUFF** shall be the upper end of a 50-foot segment with an average slope exceeding 18%.

(168) **TOWNHOUSE.** A single-family building attached to party walls with other single-family buildings, and oriented so that all exits open to the outside.

(169) **USE.** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

(170) **USE, ACCESSORY.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

(171) **USE, NON-CONFORMING.** Use of land, buildings or structures legally existing at the time of adoption of this chapter which does not comply with the use restrictions governing the zoning district in which such use is located.

(172) **USE, SUBSTANDARD.** A legal use or structure existing prior to the enactment of the county's zoning ordinances which is a permitted or conditional use or structure within the applicable zoning district, but does not meet the minimum lot area, water frontage, structure setbacks or other dimensional standards.

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

(174) **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.

(175) **VARIANCE.** A modification or variation of the strict terms of this chapter, as applied to a specific piece of property, in order to provide relief for a property owner because of undue hardship or peculiar difficulty imposed upon him or her by this chapter; except that, modification in the allowable uses within a district shall not be considered a **VARIANCE**. **VARIANCES** shall normally be limited to height, bulk, density and yard requirements.

(176) **WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.** A small, above ground structure 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 ground level platforms or landings.

(177) **WETLAND.** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

(178) **WIND ENERGY CONVERSION SYSTEM (WECS).**

(a) An electrical generating facility comprised of one or more wind turbines and accessory facilities, including, but not limited to: power lines; transformers; substations; and meteorological towers that operate by converting the kinetic energy of wind into electrical energy.

(b) The energy may be used on-site or distributed into the electrical grid.

(179) **YARD.** Any space in the same lot with a building open and unobstructed from the ground to the sky.

(180) **YARD, FRONT.** The area 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; except, on riparian lots, the **FRONT YARD** will be taken to be that part of the lot that faces the water.

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

(182) **YARD, SIDE.** An open unoccupied space on a lot between the main building and the side line of the lot, extending from the front of the lot to the rear of the lot.

(Ord. passed 7-28-2015; Ord. passed 12-1-2015; Ord. 16-01, passed 5--2016; Ord. 16-2, passed ---; Ord. 16-8, passed 12-27-2016; Ord. 17-3, passed ---; Ord. 18-2, passed 6-19-2018; Ord. 18-4, passed 6-19-2018; Ord. 19-4, passed 8-27-2019; Ord. 20-1, passed 12-29-2020)

§ 155.004 APPLICATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(B) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(C) Except as in this chapter specifically 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 chapter.

§ 155.005 SEPARABILITY.

(A) It is hereby declared to be the intention that several provisions of this chapter are separable in accordance with the following:

(1) If any court of competent jurisdiction shall adjudge any provisions of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said judgment; and/or

(2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property building, or structure, such judgment shall not affect other property, buildings or structures.

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

(Ord. 18-4, passed 6-19-2018)

§ 155.006 LOT COVERAGE.

Not more than 15% of a lot may be covered by buildings and not more than 25% of lot may be covered by impervious

surfaces, including all structures, decks and pavement areas, except as provided in §§ 155.053 , 155.054 and 155.055 of this chapter.

§ 155.007 LOTS OF RECORD.

(A) Lots of record in the office of the County Recorder prior to 8-1-1978 may be allowed as residential building sites; provided:

(1) They have frontage on an existing public right-of-way or have frontage on an existing easement or other private roadway existing prior to 1-1-1977; and

(2) They have at least 20,000 square feet of area.

(a) Lots smaller than 20,000 square feet may be used as dwelling sites if the owner can prove that adequate sanitary facilities can be provided. Said sanitary facilities must be located on the same lot of record as the dwelling, or on adjacent land which is legally available to the owner. Extraordinary alteration of the lot through land filling or excavation shall not constitute proof of an adequate site for sanitary facilities.

(b) The Board of Adjustment shall decide if lots smaller than 20,000 square feet may be used for dwelling sites in accord with § 155.026(B) of this chapter. The expansion of the floor area of substandard residential uses on lots smaller than 20,000 square feet shall also be reviewed by the Board of Adjustment. Such expansion may be denied or limited by the Board when there is limited space for sewage treatment and/or no alternative sewage treatment site on the lot. The Board of Adjustment may note in its review that a substandard residential use should be used for seasonal use only, if adequate sanitary facilities for year-round occupancy cannot be provided. Holding tanks need not be considered as adequate sanitary facilities for year-round use. In no case shall the expansion of a substandard residential use exceed 50% of the assessed value of the original structure if a holding tank is the only available method for sewage treatment.

(c) In determining if adequate sanitary facilities can be provided, the Board of Adjustment shall require that all standards in § 155.090 of this chapter, sewage treatment and disposal standards be shown to be met. Due to the small lot size, and in areas where community water and sewer systems are not planned to be installed, the Board of Adjustment may require that proposals include a second location for a sewage treatment system. Proposals which can provide for only one site, and require a mound system or other alternative sewage treatment system shall not be considered as adequate sanitary facilities on lots which are predominantly low (less than six feet) in elevation above the ordinary high water mark or water table. The total square footage of any proposed residence shall be limited by the Board on any lot where there is no alternative sewage treatment site available.

(B) In a group of two or more contiguous lots under the same ownership, if an individual lot has less than 20,000 square feet of area, no lot nor lots may be considered as a separate parcel of land for the purposes of sale or development unless each separated parcel and the remainder contains at least 20,000 square feet of lot area.

(C) All other requirements of this chapter are met, including, but not limited to, setback standards and sewage treatment standards.

§ 155.008 NON-CONFORMING USES.

(A) *Non-conforming building and uses.*

(1) A non-conforming use existing at the time of adoption of this chapter may be continued, except as provided herein.

(2) (a) A non-conforming building or land existing at the effective date of this chapter shall be discontinued within a reasonable period of amortization of a building; uses of buildings and land which becomes non-conforming by reason of a change in this chapter shall also be discontinued within a reasonable period of amortization of the building. A reasonable period of amortization shall be construed to begin after the date of adoption of this chapter and shall be considered to be 40 years for buildings of ordinary wood construction; 50 years for buildings of wood and masonry construction; 60 years for buildings of fireproof construction; and 20 years for mobile homes.

(b) These amortization periods were established and became effective on 1-1-1973 by ordinance, and have not been altered by changes or amendments in county ordinances since that date, except for the creation of new non-conforming uses. Special standards for specific uses may be found in other divisions of this section. Petitions for reviews of individual cases in regard to non-conforming uses may be made to the Board of Adjustment when the amortization period expires. The Board of Adjustment shall consider the appearance, safety and general condition of structures when determining if a non-conforming structure may remain beyond its amortization period.

(3) In the Floodplain District, a non-conforming use within the flood fringe may be continued provided that such use will not have an unduly adverse effect on flood flows, velocities or stages, associated with the regional flood. Any addition or modification to be a lawful non-conforming use within the flood fringe shall be in conformance with the provisions of § 155.056 of this chapter.

(4) In the event that a non-conforming use is discontinued or its normal operation stopped for a period of six months, the use shall thereafter conform to the regulations of the district in which it is located.

(B) *Expansion and alteration.*

(1) A non-conforming use existing at the time of the adoption of this chapter may be continued provided that the exterior dimensions of such use shall not be extended or expanded. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification. The foregoing

provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(2) A feedlot that is non-conforming because of excessive animal unit numbers, existing prior to 1981 on a residential parcel or June 1995 on A/R or AG parcels, may be continued; provided that, 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 one year to a lesser number of animal units, such animal unit numbers shall not thereafter be increased.

(3) In the Floodplain Overlay District, no alterations shall be allowed which would result in increasing the flood damage potential of that structure and the total alterations allowed over the life of the structure shall not exceed 50% of the market value of the structure.

(C) *Restoration.* No building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 50% of its value shall be restored, except in the conformity with the regulations of this chapter.

(D) *Normal maintenance.*

(1) Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary, non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.

(2) Nothing in this chapter shall prevent the placing of a structure in the safe or more liveable conditions when said structure is declared unsafe by the County Building Inspector.

(E) *Non-conforming junk yards.* No junk yard may continue as a non-conforming use for more than five years after the effective date of this chapter, except that a junk yard may continue as a non-conforming use in a Business or Industrial District if, within that period, it is completely enclosed within a building, fence, screen planting or other device of such height and density as to screen completely the operations of the junk yard. Plans of such a building or device shall be approved by the County Planning Commission before it is erected.

(F) *Non-conforming individual mobile home.*

(1) (a) Legally existing mobile homes made non-conforming by this or prior county ordinances may remain for an amortization period which will expire on 8-1-1998. (A 20-year amortization period for mobile homes on lots less than ten acres in size was established on 1-1-1973. A similar period was established for parcels ten or more acres in size on 8-1-1978.)

(b) Non-conforming mobile homes which still exist on land subject to this chapter on 8-1-1998 must be removed from the property upon the occurrence of the first sale, devise, gift or other transfer of title to the mobile home or the real estate upon which the mobile home is located, when such transfer occurs after 8-1-1998. A surviving joint tenant or the surviving spouse of an owner of such a mobile home or real estate shall be exempt from this provision until subsequent transfer.

(2) When a non-conforming mobile home is replaced with a new home, the new structure must meet current county standards for a single-family dwelling.

(3) If a non-conforming mobile home is destroyed by an unintentional or uncontrollable hazard, such as fire, wind or storm, it may be replaced by another mobile home provided the owner applies for a temporary use permit pursuant to § 155.026(D) of this chapter.

(4) Manufactured homes which were non-conforming under previous county ordinances, but which legally exist on a lot of record and meet the standards in § 155.102 of this chapter, may remain as a permitted single-family dwelling.

(5) Nothing in this section shall be construed so as to prevent the county from ordering the immediate removal of mobile homes which exists without legal permits, nor from enforcing the terms of specific, existing permits or orders in regard to individual mobile homes.

(G) *Non-conforming sewage disposal systems.*

(1) Any individual sewage disposal system or pertinent part thereof, irrespective of the date of original installation, which is not located, constructed or installed in accord with the standards within § 155.090 of this chapter shall be so relocated, reconstructed or reinstalled so as to be in conformance. This requirement was first adopted on 1-1-1973, and a period of five years from that date allowed to bring such systems into compliance.

(2) The county may order the owner of any existing non-conforming sewage disposal system to immediately bring the system into compliance with current standards.

(Ord. passed 12-1-2015)

§ 155.009 ZONING COORDINATION.

(A) Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission, and the adjacent community for review and comment prior to action by the governing body granting or denying the zoning district classification change.

(B) A period of at least two weeks shall be provided for receipt of comments; such comments shall be considered as advisory only.

§ 155.010 ZONING AND THE POLICIES PLAN.

Any change in zoning granted by the governing body shall automatically amend the Policies Plan in accordance with said zoning change.

§ 155.011 SUBSTANDARD USES.

(A) Substandard uses and structures shall not be subject to an amortization period, but shall be allowed to continue, except as specified in § 155.008(C) of this chapter.

(B) Minor alterations to substandard uses or structures will require a variance only if the action would result in the use being less in conformance with applicable standards.

(C) Substandard conditional uses may be required to apply for a new or amended conditional use permit for expansion or alteration, or to protect the public health, safety or welfare.

§ 155.012 SUPREMACY.

(A) When any condition imposed by any provision of this chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other county ordinance or regulation, the more restrictive conditions shall prevail.

(B) This chapter is not intended to abrogate any easements, restrictions, covenants, relating to the use of land or imposed on lands within the county by private declaration or agreement, but where the provisions of this chapter are more restrictive than any such easement, restriction or covenant, or the provision of any private agreement, the provisions of this chapter shall prevail.

§ 155.013 EFFECTIVE DATE.

This chapter was in full force and effect from and after 8-1-1978 or the date of its passage and publication according to law, whichever occurs first.

ADMINISTRATION

§ 155.025 ZONING ADMINISTRATOR.

(A) *Creation of office.* The office of the Zoning Administrator is hereby established for which the Board of County Commissioners may appoint such employee or employees of the county as it may deem proper. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the Board of County Commissioners.

(B) *Duties.* The duties of the Zoning Administrator shall include the following:

- (1) Enforce and administer this chapter;
- (2) Issue use permits and maintain records thereof;
- (3) Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for conditional use permits;
- (4) Receive and forward all applications for and petitions for matters to come before the Board of Adjustment;
- (5) Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this chapter;
- (6) Appoints agents to inspect all construction and development to ensure that the standards of this chapter are being complied with;
- (7) Provide and maintain a public information bureau relative to matters arising out of this chapter;
- (8) Maintain the county zoning map as required in §155.046 of this chapter; and
- (9) Notify the Commissioner of Natural Resources or the Commissioner's designated representative of public hearings to consider variances, amendments or conditional uses under local shoreland management controls. These notices must be postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

§ 155.026 APPEALS AND THE BOARD OF ADJUSTMENT.

(A) *Creation and membership.*

(1) A Board of Adjustment is hereby established. The Board of Adjustment shall be appointed by the County Board of Commissioners and shall consist of five members, one of whom must be a member of the Planning Commission. Effective 5-12-1987, the County Board shall appoint members to the Board of Adjustment for terms as follows:

- (a) Two members with terms ending 12-31-1987;

(b) Two members with terms ending 12-31-1988; and

(c) One member term ending 12-31-1989.

(2) Thereafter, members of the Board shall be appointed for three-year terms beginning January 1. Members may be removed from office by the County Board for good cause shown. Every attempt shall be made to obtain a cross section of the county in appointing members to the Board, and at least three members of the Board of Adjustment must reside or own property in an unincorporated area of the county.

(3) No elected officer of the county, nor any employee of the county, shall serve as a member of the Board of Adjustment. The members of the Board of Adjustment shall be compensated as determined by the County Board and shall be paid their necessary expenses in the conduct of the business of the Board.

(4) Members shall not vote on issues on which they have a conflict of interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular Board member from voting thereon shall be decided by majority vote of regular Board members, except the member who is challenged.

(5) The Board of Adjustment shall elect a Chairperson and Vice-Chairperson from among its members and it shall appoint a Secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business. Such rules may include provisions for the giving of oaths to witness and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.

(6) Meetings of the Board of Adjustment shall be held at the call of the Chair and at such other times as the Board in its rules of procedure may specify.

(B) General duties and responsibilities; variances and administrative appeals.

(1) The Board of Adjustment shall act upon all requests for variances and upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing this chapter. Such appeal may be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.

(2) Hearings by the Board of Adjustment shall be held within such time and upon such notice to interested parties as is provided in its adopted rules of procedure. The Board of Adjustment shall establish criteria necessary in its rules of procedure for filing an application for a variance or an appeal. Written notice of hearings held by the Board of Adjustment shall be sent to affected property owners as provided by law. The Board of Adjustment shall make its decision within 15 days of the hearing, but may continue the hearing to such length of time as it deems necessary to properly consider each case.

(3) The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and, to that end, shall have all powers of the officer to whom the appeal was taken and direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

(C) Variance authority.

(1) The Board of Adjustment shall have the exclusive power to order issuance of variances from the terms of any official control including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purpose and intent of the official control, and when the variances are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes the criteria under division (D) below are met and there are practical difficulties in complying with the official control.

(2) Practical difficulties, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(3) Variances shall be granted for earth sheltered construction as defined by M.S. § 216C.06, subd. 14, as it may be amended from time to time, when in harmony with the official controls.

(4) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(5) 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.

(D) Findings.

(1) The Board of Adjustment must review variance petitions and consider the following factors prior to finding that a practical difficulty has been presented. The applicant must provide a statement of evidence addressing the following elements to the extent they are relevant to the applicant's situation.

(a) The granting of the variance will be in harmony with the County Land Use Plan.

(b) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

- (c) The plight of the owner is due to circumstances unique to the property not created by the owner.
- (d) The proposal does not alter the essential character of the locality.
- (e) The practical difficulty cannot be alleviated by a method other than a variance; and
- (f) The granting of the variance will not adversely affect the environmental quality of the area.

(2) The Board of Adjustment may grant a variance if it finds that all of the above factors have been established. The Board of Adjustment must not approve a variance request unless the applicant proves all of the above factors and established that there are practical difficulties in complying with official controls. The burden of proof of these matters rests completely on the applicant.

(3) In addition to applying the factors above, in all situations where an applicant has applied for any variance "after-the-fact", the Board may factor into its decision any elements of "bad faith".

(E) *Other duties of the Board of Adjustment.*

(1) *Lots of record that do not meet the standards of §155.007 of this chapter.* The Board of Adjustment must decide if lots of record that do not meet the standards of § 155.007 of this chapter may be used as dwelling sites. The Board shall consider the following in making that determination:

(a) Extraordinary alteration of the lot through filling or excavation shall not constitute proof of an adequate site for sanitary facilities;

(b) When there is limited space for sewage treatment or no alternative sewage treatment site, the Board may limit the square footage of any proposed dwelling or expansion and may designate the site for seasonal use only; and

(c) The existing or proposed sewage treatment system must conform with §155.090 of this chapter.

(2) *Lot line adjustments.* The Board of Adjustment may review lots of record in the office of the County Recorder which do not meet standards established by this chapter for size, width, elevation, depth or other provisions. The Board may require that such parcels be joined, combined, modified in size, shape or other ways to more nearly achieve the standards of this chapter if the owner wishes to use such parcels as building sites. The Board may initiate such proceedings or may act upon request of the property owner. If the Board determines that the lot is not acceptable as a building site, the Zoning Administrator shall provide a copy of the Board's findings to the County Assessor.

(3) *Allowances for lots not acceptable as building sites.*

(a) When practical means of a lot adjustment cannot be made under division (E)(1) above, and in other appropriate circumstances, the Board of Adjustment may declare a lot not acceptable as a building site. When the Board does so, no well, sewage treatment system, nor holding tank may be installed on the lot.

(b) Lots declared not acceptable as building sites may be allowed, as reasonably determined by the Board of Adjustment:

1. One garage or other accessory building; provided, no living quarters, nor plumbing, are installed and all other chapter standards are met; and
2. One travel trailer, excluding a park trailer; if it complies with all the conditions of §155.091 of this chapter.

(4) *Floodplain interpretation.* Where interpretation is needed as to the exact location of Floodplain District boundaries, as for example where there appears to be a conflict between the mapped boundary and actual field conditions, the Board must make the necessary interpretation based on elevations of the regional (100-year) flood profile and other available technical data.

(5) *Temporary use permits.*

(a) In instances of particular hardship, the Board of Adjustment may issue a temporary use permit. Such permits must be renewed at a frequency determined by the Board of Adjustment and administered by the Zoning Administrator. Temporary use permits are valid for six months or such other time period as the Board of Adjustment may deem appropriate. Written agreement from the applicant concerning the understanding between the applicant and the Board of Adjustment is to be filed with the Zoning Administrator before a temporary use permit is issued.

(b) The Zoning Administrator may grant a temporary use permit for no more than 45 days in an emergency when the requirement to wait for the Board of Adjustment to meet will cause undue hardship. This permit will only be valid if the applicant petitions for a temporary use permit from the Board of Adjustment, and will expire when the Board acts on the petition.

(F) *Procedure.*

(1) The person applying for a hearing before the Board of Adjustment shall fill out and submit to the Zoning Administrator a hearing application form and fee as determined by the County Board. It shall be the responsibility of the applicant to provide all information necessary for the Board of

Adjustment to reach a decision. All applications for variances must be accompanied by the following, unless the Zoning Administrator determines it is not needed for a proper review:

- (a) A certificate of survey no more than five years old which shows all existing and proposed structures, well, septic systems and other pertinent data;
 - (b) A topographic grading plan showing all grading, surface water flow and erosion control; and
 - (c) A certificate of compliance for the septic system. If the system is non-compliant, needs to be enlarged, or a new system is proposed, a full design for the system may be needed.
- (2) The Zoning Administrator shall refer the application to the Board of Adjustment for review. Notice shall be provided as required by M.S. § 394.26, as it may be amended from time to time.
- (3) The Board of Adjustment shall hold a public hearing on the proposal. The petitioner or his or her representative shall appear before the Board in order to answer questions concerning the proposal.
- (4) The Board of Adjustment may approve, approve with modifications or conditions or deny an application based on the information available and findings of the Board. All decisions by the Board of Adjustment 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.
- (5) A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement or decision or determination by an administrative official, or a request for a variance, shall be filed with the County Recorder. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be responsible for the document recording requirements of this section.
- (6) Any violation of a condition or ruling made by the Board of Adjustment shall be a violation of this chapter. Failure to comply with any ruling of the Board of Adjustment shall void any variance or special permit granted by the Board of Adjustment.
- (7) A variance shall be valid for a period of three years and, if not acted upon by the applicant or his or her assigns within that time, the variance shall be void.

§ 155.027 PLANNING COMMISSION.

(A) The County Board of Commissioners shall appoint a Planning Commission. The Planning Commission shall consist of seven members and every attempt shall be made to obtain a cross-section of the county in appointing members to the Commission. Terms of office shall be as follows:

- (1) One member from the Board of County Commissioners serving a one-year term; and
- (2) Six county representatives (residents) shall serve a three-year term (a three-year staggered term; two members each year).

(B) The removal of any member for non-performance of duty or misconduct in office shall be by resolution of the County Board of Commissioners.

(C) Vacancies shall be filled in the same manner as a new member; except that, the term of office shall be for the remainder of the term of the vacated commission member.

§ 155.028 ZONING AMENDMENTS.

(A) *Criteria for granting zoning amendments.*

(1) The County Board of Commissioners may adopt amendments to this chapter and zoning maps in relation both to land uses within a particular district or to the location of the district lines.

(2) 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 community as reflected in the Policies Plan or changes in conditions in the county.

(B) *Procedure.*

(1) An amendment to the text of this chapter or zoning map may be initiated by the County Board of Commissioners, the Planning Commission or by application of a property 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. Individuals wishing to initiate an amendment application form shall submit it to the Zoning Administrator.

(2) Written notice of public hearings on the proposed amendment shall be sent to the governing bodies of towns and municipalities located within two miles of the property to be rezoned within the county. In unincorporated areas, the property owners of record within one-half mile of the property zoning amendment. In incorporated areas, the property owners within 500 feet of the property in question shall be notified in writing of the proposed zoning amendment.

(3) A public hearing on the rezoning application shall be held by the Planning Commission within 30 days after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the County Board. The recommendation of the Planning Commission will be referred to the County Board at its next regular meeting following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

(4) The County Board must take action on the application within 60 days following referral by the Planning Commission. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to the text and zoning map of this chapter.

(5) No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within one-year period following denial of such request; except, the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

§ 155.029 CONDITIONAL USE PERMITS.

(A) *Criteria for granting conditional use permits.* In granting a conditional use permit, the County Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the County Planning Commission shall make the following findings where applicable.

(1) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

(2) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

(3) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

(4) Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

(5) The use is not in conflict with the Policies Plan of the county.

(6) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(B) *Additional conditions.*

(1) In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

(a) Increasing the required lot size or yard dimension;

(b) Limiting the height, size or location of buildings;

(c) Controlling the location and number of vehicle access points;

(d) Increasing the street width;

(e) Increasing the number of required off-street parking spaces;

(f) Limiting the number, size, location or lighting of signs;

(g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and

(h) Designating sites for open space.

(2) Any change involving structural alterations, enlargements, intensification of use or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The County Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the Planning Commission; time limits, review dates and such other information as may be appropriate.

(C) *Procedure.*

(1) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form.

(2) The Zoning Administrator shall refer the application to 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 days prior to the hearing. Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two miles of the property under consideration located within the county. In unincorporated areas of the county, property owners of record within one-quarter mile of the affected property or the ten 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 conditional use permit.

(4) The petitioner or his or her representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.

(5) An amended conditional use permit application shall be administered in a matter similar to that required for a new special use permit. Amended special use permit shall include requests for changes in conditions.

(6) No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial. Conditional use permits shall be valid for six months unless otherwise specified. All conditions in a conditional use permit shall be commenced within six months and shall be complied with within one year unless otherwise specified.

(7) If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review.

(8) In the event that the applicant violates any of the conditions set forth in this permit, the County Planning Commission shall have the authority to revoke the conditional use permit.

(9) A certified copy of any conditional use permit shall be filed with the County Recorder. The conditional use permit shall include the legal description of the property involved. The Zoning Administrator shall be responsible for the document recording requirements of this section.

§ 155.030 PERMITS AND FEES.

(A) *Building permits.* For the purpose of enforcing this chapter, a land use and building permit shall be required of all persons intending to erect, alter, wreck or move any building or structure. Buildings 200 square feet and less in total ground coverage shall not require a permit; however, they shall meet all required setback distances. All additions to residences shall require a permit. Buildings and permits shall conform with all applicable codes and ordinances adopted by the county. Permits shall not be required for the location of mobile homes or manufactured homes in mobile home parks which the county recognizes as legally established mobile home parks.

(1) Persons requesting a building permit shall fill out a building permit form available from the Zoning Administrator.

(2) Completed building permit forms and a fee as may be established by resolution of the County Board of Commissioners shall be submitted to the Zoning Administrator. If the proposed development conforms in all respects to this chapter a building permit shall be issued by the Zoning Administrator within a period of 75 days.

(3) If the proposed development involves a zoning amendment, variance or conditional use permit, the application, together with a building permit, shall be submitted either to the Planning Commission or Board of Adjustment or Appeals for review and appropriate action according to the procedures set forth in §§ 155.026, 155.027 and 155.028 of this chapter.

(4) For all lots of ten acres or less in size, a certificate of survey shall accompany each residential building permit application along with evidence that corner irons are established and visible. The certificate of survey shall include the location and size of the proposed residence sewer system, well, existing buildings and significant environmental features.

(B) *Signs and billboard permits.* A permit shall be required in all cases where a sign or billboard is erected, altered or relocated within the area of jurisdiction of this chapter. Specific requirements, exceptions and application procedures are set forth in § 155.097 of this chapter.

(C) *Sewage and water systems; licenses and permits.*

(1) A license shall be required of any person, firm or corporation engaging in the business of installing and constructing sewage disposal systems. Specific requirements and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(2) A permit shall be required to install, alter, repair or extend any individual sewage disposal system. Specific requirements, exceptions and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(3) A license shall be required of any person, firm or corporation engaging in the business of servicing and cleaning septic tanks. Specific requirements and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(D) *Land alteration permits.*

(1) In all cases where grading and/or filling of any land within the county would result in substantial alteration of existing ground contour, a permit shall be required. Specific requirements, exceptions and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(2) Substantial alteration shall be defined as movement of earth or materials in excess of 50 cubic yards in the Shoreland Districts and in excess of 500 cubic yards in all other districts.

(E) *Excavation permits.* The use of land for the removal of topsoil, sand or gravel, or any other material is permitted only by the issuance of an excavation permit. Specific requirements, exceptions and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(F) *Mobile home park permits.* Before any mobile home park or travel trailer park shall be constructed, altered or extended in any manner, a permit shall be required. Specific requirements and application procedures are set forth in §§ 155.075 to 155.108 of this chapter.

(G) *Essential service utility permits.* Essential services as treated herein shall refer to trunk transmission, sewer and water system, collection or distribution lines, except electrical distribution lines, and excepting lateral or house lines. Specific requirements and procedures are set forth in § 155.098 of this chapter.

(Ord. passed 12-1-2015; Ord. 18-4, passed 6-19-2018)

ZONING DISTRICTS AND DISTRICT PROVISIONS

§ 155.045 ZONING DISTRICTS.

(A) The zoning districts shall apply as designated on the zoning map and defined within this chapter and applicable state or federal regulations. Two types of zoning districts are utilized. All lands under jurisdiction of this chapter shall be designated as lying within one, and only one, primary zoning district. In addition, one or more overlay districts may apply.

Primary Districts	Symbol	Code Section
Primary Districts	Symbol	Code Section
Agricultural/Residential	(A/R)	§ 155.047
Commercial Recreation Shorelands	(S-3)	§ 155.057(H)
General Agriculture	(AG)	§ 155.048
General Business	(B-2)	§ 155.054
General Industry	(I-1)	§ 155.055
Highway Business	(B-1)	§ 155.053
Multi-Family Urban	(R-3)	§ 155.052
Suburban Residential	(R-2)	§ 155.050
Suburban Residential (a)	(R-2a)	§ 155.051
Urban/Rural Transition	(R-1)	§ 155.049
Wild and Scenic River	(W)	§ 155.058

Overlay Districts	Symbol	Code Section
Adult Uses Overlay District	(AU)	§ 155.135
Floodplain	(FP)	§ 155.056
Planned Unit Development	(PUD)*	§ 155.059
Residential Recreation Shorelands	(S-2)	§ 155.057(G)
Special Protection Shorelands	(S-1)	§ 155.057(F)

(B) The planned unit development zone is a floating district. The standards of this district may be applied to any residential, commercial or industrial district at the request of the landowner and the discretion of county. In such districts, where PD standards differ from the original district standards, the PD standards apply.

§ 155.046 ZONING MAP.

(A) The location and boundaries of the districts established by this chapter is set forth on the zoning map which is hereby incorporated as part of this chapter. It shall be the responsibility of the Zoning Administrator to maintain and update this map and the amendments to such map shall be recorded on such map within 30 days after official adoption of zoning amendments.

(B) Whether or not they are so designated on the zoning map, residential plats which were approved prior to 8-2-1978 shall be zoned in accord with the following schedule. The Zoning Administrator shall be responsible to record the following changes on the zoning maps in a timely manner. Zoning for residential plats approved prior to 8-2-1978:

Average Lot Size	Zoning District
Less than 2 acres	R-1
Between 2 and 4 acres	R-2
Between 4 and 10 acres	R-2(a)
Over 10 acres	No change

(C) In addition, within shoreland areas, existing metes and bounds subdivisions comprised of five or more adjacent lots less than one acre in size shall be zoned R-1.

(D) The purpose of these changes is to bring existing residential areas, many of which are zoned AG, General Agriculture, into a more proper and reasonable zoning district. Many of the performance standards in the AG District cannot be reasonably applied in residential areas with small lots, and have caused hardships for the property owners affected. This change is intended to place the properties concerned into that zoning district which is specifically suited to the lot sizes in each area.

§ 155.047 AGRICULTURAL/RESIDENTIAL (A/R).

(A) *Purpose.* This district is created to serve as a buffer between commercial agricultural areas and more intensely

developed residential areas, to provide for very low density residential development in areas especially unsuited to long term agricultural uses and to allow limited residential development which will not be provided with an urban level of services.

(B) *Permitted uses.*

- (1) Agricultural uses subject to county feedlot regulations;
- (2) One single-family dwelling per lot of record;
- (3) Forestry and nurseries (not to include retail);
- (4) Family-operated seasonal produce stands;
- (5) Public recreation and historic sites;
- (6) Horticultural uses; and
- (7) Solar energy systems ten kilowatts and under.

(C) *Accessory uses.*

- (1) Non-commercial uses, structures or buildings customarily incidental to permitted uses;
- (2) Livestock subject to county feedlot regulations and all other standards in this chapter; and
- (3) Non-commercial wind chargers.

(D) *Conditional uses.*

- (1) Kennels;
- (2) Riding stables;
- (3) Home occupations;
- (4) Home extended business in accordance with §155.103 of this chapter;
- (5) Churches and cemeteries;
- (6) Commercial outdoor recreation;
- (7) Bed and breakfast units in single-family dwellings;
- (8) Township halls;
- (9) Mining and extraction in accordance with §155.100 of this chapter;
- (10) Subdivisions, minimum lot size of ten acres;
- (11) Rural planned unit development in accordance with §155.059 of this chapter;
- (12) Retreat center in accordance with §155.104 of this chapter;
- (13) Essential services in accordance with §155.098 of this chapter;
- (14) Large animal veterinary clinics serving agricultural uses and livestock;
- (15) Commercial agricultural tourism; and
- (16) Solar energy systems over ten kilowatts up to 100 kilowatts.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.* Parcels in the Agricultural/Residential District shall be limited to one-half animal unit per acre and less than ten animal units total, except as allowed under §155.008(B) of this chapter.

(1) *Height regulations.*

(a) The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

(b) This height limitation shall not apply to grain elevator legs, silos, cooling towers, water towers, chimneys and smokestacks, church spires, electric transmission lines or private radio or television towers.

(2) *Front yard regulations.*

(a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway

65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(3) Side yard regulations. There shall be a minimum side yard of 30 feet for principal uses and 15 feet for accessory uses, unless the building is housing livestock, then the setback is 100 feet.

(4) Rear yard regulations. There shall be a rear yard having a depth of not less than 50 feet for non-livestock buildings and a setback of 100 feet for livestock buildings.

(5) Lot area regulations. The minimum lot size shall be ten acres, except in PUD projects approved pursuant to § 155.059 of this chapter.

(6) Lot width and depth regulations. The minimum lot width shall be 300 feet and the minimum lot depth shall be 300 feet, except in PUD projects approved pursuant to § 155.059 of this chapter.

(7) General regulations. Additional requirements for parking, signs, sewage systems and other regulations set forth in §§ 155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 16-01, passed 5--2016; Ord. 16-6, passed 10-18-2016; Ord. 16-8, passed 12-27-2016)

§ 155.048 GENERAL AGRICULTURE (AG).

(A) *Purpose.* General agricultural areas are established for the purpose of preserving, promoting, maintaining and enhancing the use of land for commercial agricultural purposes, to prevent scattered and leap-frog non-farm growth, to protect and preserve natural resource areas and to stabilize increases in public expenditures for such public services as roads and road maintenance, police and fire protection and schools.

(B) *Permitted uses.*

- (1) Agricultural land uses;
- (2) Livestock feedlots less than 500 animal units subject to all county and state regulations;
- (3) One single-family dwelling per lot of record;
- (4) Forestry and nurseries (not to include retail);
- (5) Small-scale family operated seasonal produce stands;
- (6) Public recreation;
- (7) Historic sites and areas;
- (8) Horticultural use;
- (9) One division, per eligible quarter-quarter section or eligible lot of record, as defined and regulated in division (G) below;

(10) Subdivisions and lot line alterations which are purely for agricultural purposes, and do not increase the density or number of residential building sites; provided that, all lots created contain at least 40 acres and at least one complete quarter-quarter section, with public road frontage; and

(11) Solar energy systems.

(C) *Accessory uses.* Any incidental machinery, structure or building customarily incidental to and necessary to the conduct of agricultural operations or other permitted uses.

(D) *Conditional uses.*

- (1) Land reclamation and alteration;
- (2) Farm equipment sales;
- (3) Livestock feedlots in excess of 500 animal units;
- (4) Kennels;
- (5) Riding academies;
- (6) Home occupations;
- (7) Cemeteries;
- (8) Wholesale nursery, landscape and garden sales with seasonal retail sales (not to include retail stores);
- (9) Churches, not to include a school, but may include a residence;

- (10) Bed and breakfast units in single-family dwellings;
- (11) Township halls;
- (12) One farm accessory mobile home or structure per farm operation as a temporary use and subject to annual local township review;
- (13) Commercial outdoor recreation;
- (14) Mining and extraction in accordance with §155.100 of this chapter;
- (15) Sewage treatment plants;
- (16) Non-commercial contractors yards;
- (17) Essential services in accordance with §155.098 of this chapter;
- (18) Private airstrip, subject to the following conditions:
 - (a) All applicable regulations of the state and federal government are properly satisfied;
 - (b) There are no existing residential subdivisions, and no areas designated for future residential growth within the land use plan of the County Comprehensive Plan, within a radius of one and one-half miles of the proposed airport; and
 - (c) The airport shall be limited to use exclusively by the property owner.
- (19) Home extended business in accordance with §155.103 of this chapter;
- (20) Retreat center in accordance with §155.104 of this chapter;
- (21) Large animal veterinary clinics serving agricultural uses and livestock;
- (22) Commercial agricultural tourism;
- (23) Solar energy farms;
- (24) Public schools in accordance with §155.110 of this chapter;
- (25) Seasonal storage; and
- (26) Treatment and recovery facility.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.* Parcels in the Agricultural District which are less than ten acres in size shall be subject to residential standards for animals and lot standards that correspond with the zoning district which is closest in lot size to the parcel. R-1 standards apply for less than 2.5 acres, R-2 for lots 2.5 acres to 4.99 acres and R-2a for lots 5 to 9.99 acres. For all parcels 10 acres and over in size, the following standards shall apply.

(1) *Height regulations.*

- (a) The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.
- (b) This height limitation shall not apply to grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, electric transmission lines or radio or television towers.

(2) *Front yard regulation.*

- (a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway
65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(3) *Side yard regulations.* There shall be side yard width of not less than 100 feet for buildings which will house livestock or any farm animals, and 30 feet for all other buildings.

(4) *Rear yard regulations.* The rear yard setback depth shall be 50 feet for all non-livestock buildings and no less than 100 feet for buildings that will house livestock.

(5) *General regulations.* Additional requirements for parking, signs, sewage systems and other regulations are set forth in

§§ 155.075 through 155.108 of this chapter.

(G) *Requirements and standards for dwellings and permitted divisions.*

(1) *Limiting definitions.*

(a) A quarter-quarter section is a parcel of land consisting of approximately 40 acres and constituting the northeast, northwest, southwest or southeast quarter of a quarter section of land in the United States Government survey grid system of land survey. For the purposes of this section, a government lot shall be considered a quarter-quarter section; provided, it contains at least 30 acres of land above ordinary high water.

(b) An "eligible quarter-quarter section" shall be any quarter-quarter section which meets all of the following:

1. It is complete and under common ownership;
2. It has frontage on a public road; and
3. It does not include any existing dwelling, commercial use or other non-agricultural development.

(c) An "eligible lot of record" shall be a lot of record pursuant to §155.007 of this chapter which does not include any existing dwelling, commercial use or other non-agricultural use or structure other than accessory uses such as garages, storage sheds and the like and which is greater than ten acres in size, but does not qualify as an eligible quarter-quarter section.

(d) An eligible lot of record or quarter-quarter section may be permitted one single family dwelling on the parcel as a whole, or one division as regulated in division (G)(4) below for the purpose of developing the division. This right shall be referenced as the parcel's "entitlement".

(2) *Existing residences.* Legally existing single-family dwelling on a quarter-quarter section or lot of record over ten acres in size may be subdivided out onto a smaller parcel provided:

- (a) The requirements for a division in division (G)(4) below are met; and
- (b) The remainder of the property has frontage on a public road.

(3) *Determining entitlements on large parcels.*

(a) On a farm or adjoining parcels, including all contiguous land under common ownership, extra entitlements shall be available to the entire parcel; provided, the following conditions are met:

1. The lands involved comprise more than 60 acres; and
2. If the parcel is the result of a division since 8-1-1978, then the number of entitlements shall be determined by using the calculations in division (G)(3)(b) below to all contiguous lands under common ownership as they existed on 8-1-1978. These entitlements shall be allocated to the new parcels by the Zoning Administrator based on acreage and the standards contained herein, and appeals shall be heard by the Board of Adjustment; provided that, no extra entitlements may be created.

(b) Entitlements for such parcels shall be determined by the Zoning Administrator as follows.

1. The total acreage of the parcel shall be calculated using the best information available (the administrator or Board of Adjustment may require the applicant to provide a survey of the property in case of dispute over size).

2. Forty acres shall be subtracted from this total for each existing house on the parcel, and for each entitlement division which has occurred since 8-1-1978.

3. The result from divisions (G)(3)(b)1. and (G)(3)(b)2. above shall be divided by 40 acres, and that result rounded to the nearest whole number, which shall be the number of entitlements the entire parcel is allocated. The use of these entitlements shall be subject to all regulations in this chapter, including public road frontage requirements.

(c) The purpose of this provision is to provide relief to potentially inequitable situations where large landholdings may be unduly restricted due to the location of substantial acreage without road frontage. The intent is not to increase residential density in the AG Zone above an average of one house per 40 acres. If a large parcel is subdivided into agricultural parcels, the entitlements shall be allocated at the time of sale in accord with the standards contained within (provided that, no new entitlements may be created), unless otherwise specified and appropriately recorded through deed restrictions or action by the Board of Adjustment or Planning Commission.

(4) *Entitlement divisions.* If a landowner chooses to use an entitlement on an eligible lot of record or quarter-quarter section as a division, the division and remainder of the eligible parcel shall be subject to the following requirements.

(a) *Deed restriction.* The owner(s) (including, in all cases, the fee owner) of the eligible parcel must sign and record a deed restriction to apply to the remainder of the parcel. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder in accord with the terms of this section, unless it is rezoned. The restriction shall be on a form provided by the Zoning Administrator.

(b) *Landlocked parcels prohibited.* The remainder must have frontage on a public road, or must be held in common ownership with contiguous lands which have road frontage. No lot, nor parcel, may be created which does not have road frontage in accord with the requirements herein.

(c) *Lot standards.*

1. The minimum lot size shall be one acre. Minimum road frontage, lot width, depth, setback and other standards shall be the same as for the residential zoning district closest to the lot's size.

2. A private access strip with at least 33 feet and not exceeding 66 feet in width, which abuts a public road, may be approved by the Zoning Administrator in lieu of the standard road frontage requirement, if the intent is to provide access to a wooded site, or to otherwise preserve active agricultural land or practices. The strip shall not be an easement, but owned in fee with the division. Maintenance shall be the complete responsibility of the property owner. In no case may such a strip be used to serve more than one residence, unless accepted as a public road by the township. Refusal by the Zoning Administrator to approve such a strip may be appealed to the Board of Adjustment.

3. Maximum lot size shall be:

a. Five acres for divisions from eligible lots of record;

b. Two and one-half acres for divisions from eligible quarter-quarter sections if the building site is undeveloped cropland classified as prime farmland or farmland of statewide importance as defined in the Land Use Plan; and

c. Ten acres in all other instances.

(d) *Lot status.* The division shall remain zoned AG, General Agriculture, but for the application of rules pertaining to livestock, outdoor storage and other general standards, a division ten acres or less in size shall be considered a residential lot.

(5) *Entitlement transfers; standards.* The purpose of allowing transfers is to preserve productive farmlands, and to minimize the effects of the residences on the environment, the surrounding neighborhood and nearby farm operations. In no case shall the use of entitlement transfers be used to increase the potential residential density in the Agricultural or Agricultural/Residential Zones. If a new road is proposed or required to serve a group of lots, a plat will be required and the road must be accepted by the township board. These standards are in addition to those contained in § 155.029 of this chapter.

(a) *Contiguous common ownership.* Entitlements may be transferred to contiguous property under common ownership provided the proposed divisions comply with division (G)(4) above. Said transfers may be approved by the Zoning Administrator if all other regulations are met. Transfers shall require the issuance of a conditional use permit by the Planning Commission if the transfers result in the grouping of three or more homes at one location.

(b) *Non-contiguous common ownership.* Transfers from property under common ownership, but not contiguous, require the issuance of a conditional use permit. Such transfers must be within the boundaries of the township where the entitlement currently exists and common ownership of the parcels must be established and recorded for a minimum of three years before the transfer can take place.

(6) *Certain conditional uses.* An entitlement may be used for a division to allow a conditional use provided a deed restriction is placed on the remainder pursuant to division (G)(4)(a) above and the division size is set by the Planning Commission as part of the conditional use permit process. The requirement for a deed restriction may be waived by the Planning Commission if the division is less than one acre in size and for the sole purpose of utility or public service structures needed to promote public health, safety or welfare. The Planning Commission shall waive the requirement for a deed restriction if the division is solely for the creation of a site for a township hall.

(7) *Alteration of existing lots.* Existing legal lots of record may be altered in size in compliance with these regulations provided an order approving such alteration is signed by the Zoning Administrator and filed with the County Recorder. Said order shall prohibit the creation of any new residential building sites, except in accord with this chapter.

(8) *General.* The intent of these standards shall be to preserve an average density of one dwelling per 40 acres in the AG District, except where legal lots of record are involved. This intent shall be considered when questions regarding interpretation of these regulations may arise.

(Ord. passed 7-28-2015; Ord. 16-01, passed 5--2016; Ord. 16-6, passed 10-18-2016; Ord. 16-8, passed 12-27-2016; Ord. 17-3, passed ---; Ord. 18-2, passed 6-19-2018; Ord. 18-4, passed 6-19-2018; Ord. 19-4, passed 8-27-2019; Ord. 20-1, passed 12-29-2020)

§ 155.049 URBAN/RURAL TRANSITIONAL (R-1).

(A) *Purpose.* This District is established in areas within the county for the purpose of allowing limited urban growth. The major purpose of this district is to provide areas within the county where urban development can take place and where urban services can be readily extended and provided. This district may be allowed adjacent to cities where sanitary sewer and other services are available and for riparian shoreline lots on suitable lakes.

(B) *Permitted uses.*

(1) Single-family detached residences;

(2) Any agricultural land use already existing;

(3) Community center;

(4) Forestry;

(5) Nurseries, excluding greenhouses;

(6) Public recreation;

- (7) Livestock, poultry and animals subject to § 155.088(B) of this chapter; and
- (8) Solar energy systems ten kilowatts and under.

(C) *Accessory uses.*

- (1) Fences;
- (2) Gardening and other horticultural uses where no sale of products is conducted on the site;
- (3) Decorative landscape features such as statues, rocks, reflecting ponds and benches;
- (4) Public recreation equipment; and
- (5) Garages and non-commercial pole structures subject to the following size restrictions:
 - (a) Lot area under 20,000 square feet: maximum 800 square feet structure with maximum side wall height of 12 feet;
 - (b) Lot area over 20,000 square feet but less than 80,000 square feet: maximum 1,400 square feet structure with maximum side wall height of 14 feet; and
 - (c) Lot area over 80,000 square feet: maximum 2,000 square feet structure with maximum side wall height of 14 feet.

(D) *Conditional uses.*

- (1) Essential services - telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures such as transformers, unit substations and equipment houses;
- (2) Fire station;
- (3) Police station;
- (4) All home occupations;
- (5) Cemeteries;
- (6) Any change in agricultural practice that marks an intensification of present agricultural use;
- (7) Commercial outdoor recreation;
- (8) Seasonal produce stands;
- (9) One mobile home per farmstead (necessary to farm operations and at least 800 square feet in area);
- (10) Medical and dental clinics;
- (11) Other essential services - water supply buildings, reservoirs, wells, regional pipelines;
- (12) Golf courses;
- (13) Churches;
- (14) Residential subdivisions;
- (15) Schools within one-half mile of incorporated cities;
- (16) Commercial day care center;
- (17) Township halls; and
- (18) Solar energy systems over ten kilowatts up to 100 kilowatts.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.* (Parcels in the R-1 District shall be limited to one-half animal unit per acre and less than ten animal units total, except as allowed under § 155.008(B) of this chapter.)

- (1) *Height regulations.* No building hereafter erected shall exceed two and one-half stories or 35 feet in height.
- (2) *Front yard regulations.*
 - (a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway
65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within 300 feet; except that, no building shall be located less than 20 feet from the right-of-way line.

(3) *Side yard regulations.* There shall be a minimum side yard of 15 feet for principal uses and ten feet for accessory uses unless the building is housing livestock, then the setback is 100 feet for livestock buildings.

(4) *Rear yard regulations.* For all non-livestock buildings, there shall be a rear yard having a depth of not less than 15 feet with the setback at 100 feet for a livestock building.

(5) *Lot area regulations.*

- (a) For dwelling units with private on-site sewage treatment systems water wells: one acre; and
- (b) For dwelling units with public sewage treatment systems: 20,000 square feet.

(6) *Lot width and depth regulations.*

(a) For dwelling units with private sewage treatment systems:

1. Lot width: 150 feet; and
2. Lot depth: 150 feet.

(b) For dwelling units with public sewage treatment systems:

1. Lot width: 100 feet; and
2. Lot depth: 100 feet.

(7) *Location.* Structures may be so located on each lot such that subdivision is possible when central sewer and water facilities become available.

(8) *General regulations.* Additional requirements for parking, signs, sewage systems, and other regulations set forth in §§ 155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 16-6, passed 10-18-2016; Ord. 16-8, passed 12-27-2016)

§ 155.050 SUBURBAN RESIDENTIAL (R-2).

(A) *Purpose.* The major purpose of this district is to allow for a “rural life-style” by permitting low-density residential development in areas that are marginal or non-feasible for agriculture.

(B) *Permitted uses.*

- (1) Single-family detached residences;
- (2) Any agricultural land use already existing at the time of subdivision;
- (3) Forestry;
- (4) Nurseries, excluding greenhouses;
- (5) Public recreation; and
- (6) Solar energy systems ten kilowatts and under.

(C) *Accessory uses.*

- (1) Garages;
- (2) Fences;
- (3) Gardening and other horticultural uses where no sale of products is conducted on the site;
- (4) Decorative landscape features such as statues, rocks, reflecting ponds and benches;
- (5) Recreation equipment;
- (6) Livestock, poultry and animals subject to provisions of §155.088(B) of this chapter;
- (7) Pole sheds; and
- (8) Non-commercial wind chargers.

(D) *Conditional uses.*

(1) Essential services - telephone, telegraph, sewer, water, gas and power distribution poles and lines and necessary appurtenant equipment and structures such as transformers, unit substations and equipment houses;

- (2) Fire station;
- (3) Police station;
- (4) Subdivisions, a two and one-half acre minimum lot subdivision in areas designated as such in the land use plan;
- (5) All home occupations;
- (6) Cemeteries;
- (7) Any change in agricultural practice that marks an intensification of present agricultural use;
- (8) Commercial outdoor recreation;
- (9) Seasonal produce stands;

(10) One mobile home per farmstead (necessary to the operation of the farm operation at a minimum floor area of 800 square feet);

- (11) Churches;
- (12) Community centers;

(13) Township Halls; and

(14) Solar energy systems over ten kilowatts up to 100 kilowatts.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.* Parcels in the R-2 District shall be limited to one-half animal unit per acre and less than ten animal units total, except as allowed under § 155.008(B) of this chapter.

(1) *Height regulations.*

(a) No building hereafter erected shall exceed two and one-half stories or 35 feet in height.

(b) This shall not apply to wind chargers which are at least 50 feet from any property line.

(2) *Front yard regulations.*

(a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway
65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within 300 feet; except that, no building shall be located less than 20 feet from right-of-way line.

(3) *Side yard regulations.* There shall be a minimum side yard of 30 feet for principal uses and ten feet for accessory uses unless the building is housing livestock, then the setback is 100 feet for livestock buildings.

(4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 30 feet for non-livestock buildings and a setback of 100 feet for livestock buildings.

(5) *Lot area regulations.* The minimum lot size shall be two and one-half acres.

(6) *Lot width and depth regulations.* The minimum lot width shall be 200 feet and the minimum lot depth shall be 300 feet.

(7) *General regulations.* Additional requirements for parking, signs, sewage systems and other regulations set forth in §§ 155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. passed 12-1-2015; Ord. 16-6, passed 10-18-2016; Ord. 16-8, passed 12-27-2016; Ord. 18-2, passed 6-19-2018)

§ 155.051 SUBURBAN RESIDENTIAL (R-2a).

(A) *Purpose.* The major purpose of this district is to allow for a “rural life-style” by permitting low-density residential development in areas that are marginal or non-feasible for agriculture.

(B) *Permitted uses.*

- (1) Single-family detached residences;
- (2) Any agricultural land use already existing at the time of subdivision;
- (3) Forestry;
- (4) Nurseries, excluding greenhouses;
- (5) Public recreation; and
- (6) Solar energy systems ten kilowatts and under.

(C) *Accessory uses.*

- (1) Garages;
- (2) Fences;
- (3) Gardening and other horticultural uses where no sale of products is conducted on the site;
- (4) Decorative landscape features such as statues, rocks, reflecting ponds and benches;
- (5) Recreation equipment;

- (6) Livestock, poultry and animals subject to the provisions of §155.008(B) of this chapter;
- (7) Pole barns; and
- (8) Non-commercial wind chargers.

(D) *Conditional uses.*

(1) Essential services - telephone, telegraph, sewer, water, gas and power distribution poles and lines and necessary appurtenant equipment and structures such as transformers, unit substations and equipment houses;

- (2) Fire station;
- (3) Police station;
- (4) Subdivisions, five-acre minimum lot subdivision in areas designated as such in the land use plan;
- (5) All home occupations;
- (6) Bed and breakfast units in single-family dwellings;
- (7) Cemeteries;
- (8) Any change in agricultural practice that marks an intensification of present agricultural use;
- (9) Commercial outdoor recreation;
- (10) Seasonal produce stands;

(11) One mobile home per farmstead (necessary to the operation of the farm operation at a minimum floor area of 800 square feet);

- (12) Churches;
- (13) Community centers;
- (14) Township halls; and
- (15) Solar energy systems over ten kilowatts up to 100 kilowatts.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.* Parcels in the R-2(a) District shall be limited to one-half animal unit per acre and less than ten animal units total, except as allowed under § 155.008(B) of this chapter.

(1) *Height regulations.*

- (a) No buildings hereafter erected shall exceed two and one-half stories or 35 feet in height.
- (b) This shall not apply to wind chargers which are at least 50 feet from any property line.

(2) *Front yard regulations.*

- (a) Setbacks:

Required Setback Distance from Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway
65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

(b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

(c) Within existing developed areas, the above front yard setback requirements may be adjusted to coincide with average setback occurring on either side of the proposed building within 300 feet; except that, no building shall be located less than 20 feet from right-of-way line.

(3) *Side yard regulations.* There shall be a minimum side yard of 30 feet for principal uses and ten feet for accessory uses unless the building is housing livestock, then the setback is 100 feet.

(4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 30 feet for non-livestock buildings and a setback of 100 feet for livestock buildings.

(5) *Lot area regulations.* The minimum lot size shall be five acres.

(6) *Lot width and depth regulations.* The minimum lot width shall be 300 feet and the minimum lot depth shall be 300 feet.

(7) *General regulations.* Additional requirements for parking, signs, sewage systems and other regulations set forth in §§ 155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 16-6, passed 10-18-2016; Ord. 16-8, passed 12-27-2016; Ord. 18-2, passed 6-19-2018)

§ 155.052 MULTIPLE-FAMILY URBAN DISTRICT (R-3).

(A) *Purpose.* An R-3 District is established to allow multiple-family dwellings in areas that are provided with community water and sewer systems or systems approved by the Pollution Control Agency, the County Environmental Health Officer and substantiated by specific engineering data.

(B) *Permitted uses.* All uses permitted in Urban/Rural Residential Districts.

(C) *Accessory uses.* All accessory uses permitted in Urban/Rural Residential Districts.

(D) *Conditional uses.*

(1) Essential services - telephone, telegraph and power distribution poles and lines and necessary appurtenant, equipment and structures such as transformers, unit substations and equipment housing;

(2) Multiple-family dwellings;

(3) Student housing;

(4) All home occupations;

(5) City or town hall;

(6) Agricultural land use already existing at time of zoning. No intensification or modification of agricultural activities should be allowed in multiple-family dwelling areas;

(7) Commercial recreational areas;

(8) Prefabricated or modular manufactured housing units;

(9) Medical and dental clinics;

(10) Single-family attached dwellings;

(11) Duplexes;

(12) Rest homes, hospitals;

(13) Community center;

(14) Boarding or lodging houses;

(15) Churches;

(16) Schools;

(17) Public recreation including golf courses (public or private);

(18) Mobile home parks subject to the standards in § 155.099 of this chapter; and

(19) Solar energy systems over ten kilowatts up to 100 kilowatts.

(E) *Prohibited uses.* All other uses not listed as permitted, accessory or conditional shall be prohibited.

(F) *Performance standards.*

(1) *Locational requirements.* Apartment developments should be located on major thoroughfares, near open green space or in large areas specifically designed for high density development.

(a) When possible, apartment should serve as a buffer between single-family homes and non-residential uses.

(b) The site should not be located in such a manner as to channel traffic onto minor streets in low density residential neighborhoods.

(2) *Site development.*

(a) *Height regulations.* No building hereafter erected shall exceed two and one-half stories or 35 feet in height.

(b) *Front yard regulations.*

1. Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	Federal/State Highway
130	County Road and State Aid Highway
65	Local Road
25	From right-of-way of cul-de-sac or approved "T"

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

(c) *Side yard regulations.* Side yard (setback) adjacent to another lot: 15 feet or three-fourths the height of the building, whichever is greater.

(d) *Front and rear yard regulations.* There shall be a front yard having a depth of at least 32 feet and a rear yard of 50 feet.

(e) *Lot area regulations.* The density of single-family attached or multi-family units shall not exceed eight per acre. No more than 30% of the lots' ground area shall be covered by structures.

(f) *Lot width and depth regulations.* There shall be a lot width of at least 85 feet and a lot depth of 85 feet.

(g) *Land use.* The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping and the like so that no portion of the site remains undeveloped.

(G) *General regulations.*

(1) In shoreland areas, additional restrictions concerning docking facilities and other centralized facilities may apply in accordance with statewide standards for management of shorelands areas.

(2) Additional requirements for R-3 Districts are set forth in §§155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 16-8, passed 12-27-2016; Ord. 18-4, passed 6-19-2018)

§ 155.053 HIGHWAY BUSINESS DISTRICT (B-1).

(A) *Purpose.* A B-1 District is established to accommodate those types of businesses that require an accessibility to highways to successfully function. To minimize unmanageable strip development, B-1 should only allow the type of businesses that absolutely require highway accessibility.

(B) *Conditional uses.*

(1) Drive-in movie theater;

(2) Drive-in restaurant;

(3) Recreation equipment sales;

(4) Motels;

(5) Auto service stations;

(6) Seasonal produce stand;

(7) Auto sales lot;

(8) Cafés and restaurants;

(9) Parking lots;

(10) Any other incidental repair, processing and storage necessary to conduct a permitted principal use; provided that, said accessory use does not exceed 30% of the floor space of the principal building;

(11) Essential services - utility lines and other necessary appurtenant structures;

(12) Other highway-oriented business activities of the same general character as listed;

(13) Church;

(14) Commercial recreation;

(15) Subdivisions, minimum size of one acre;

(16) Commercial day care centers;

(17) Convenience-type retail outlets with high customer turnover rate;

- (18) Solar energy farms; and
- (19) Solar energy systems over ten kilowatts up to 100 kilowatts.

(C) *Performance standards.* B-1 Districts shall be located only adjacent to thoroughfares. Service roads shall be encouraged in the B-1 Districts. The service roads shall have access to thoroughfares only. No service roads shall have access to local residential streets, nor shall highway business oriented traffic be routed on or directed to local residential streets.

(1) *Service road standards.*

- (a) Each service road shall have a minimum of 30 feet of right-of-way exclusive of adjoining thoroughfare right-of-way.
- (b) Each service road shall be at least 24 feet wide and must be surfaces and have curbs.
- (c) Two-way traffic shall be allowed on service roads.
- (d) No parking shall be allowed on service roads.
- (e) Access from service roads shall be no more frequent than one access for each 500 feet of thoroughfare frontage.

(2) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed two and one-half stories or 35 feet in height.

(3) *Front yard regulations.*

- (a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
160	State/Federal Highway
160	County Road and State Aid Highway
95	Local Road

(b) Where a lot is located at the intersection of two or more roads or highways which bound two or more sides of the lot, no building shall project beyond the front yard line of either road.

(4) *Side yard regulations.*

- (a) There shall be a side yard having a width of not less than 20 feet on each side of a building.
- (b) No building shall be located within 50 feet of any side lot line abutting a lot in any Residential or Agricultural District.

(5) *Rear yard regulations.*

- (a) There shall be a minimum rear yard of 35 feet.
- (b) No building shall be located within 50 feet of any side lot line abutting a lot in any Residence or Agricultural District.

(6) *Lot width and depth regulations.* There shall be a minimum lot width and depth of 150 feet.

(7) *Water and sewer system.* The developer shall be required to indicate the proposed water and sewage disposal system to serve the development.

(8) *Screening and fencing.* The county may require the screening and fencing of commercial uses especially on side and rear yards facing Residential and Agricultural Districts.

(9) *Coverage.* No more than 50% of the lot ground area shall be covered by buildings.

(10) *General regulations.* Requirements for signs, parking, shopping centers and other regulations are set forth in §§ 155.075 through 155.108 of this chapter.

(D) *Multiple use buildings.* In general, only one principal use may be permitted per lot. Where buildings are proposed which will contain more than one use, each use or change of use shall require a separate conditional use permit.

(Ord. passed 7-28-2015; Ord. 16-8, passed 12-27-2016)

§ 155.054 GENERAL BUSINESS DISTRICT (B-2).

(A) *Purpose.* The General Business District is intended to provide a district that will allow general retail and commercial uses to serve existing population.

(B) *Conditional uses.*

- (1) Commercial recreation;
- (2) Hospitals;

- (3) Hotel and motel;
- (4) Offices and medical centers;
- (5) Retail trade;
- (6) Government buildings;
- (7) Wholesale business;
- (8) Indoor recreation, such as movie theater;
- (9) Restaurants, cafés and supper clubs;
- (10) Passenger transportation terminal;
- (11) Drive-in business;
- (12) Clubs, lodges;
- (13) Automobile service stations;
- (14) Subdivisions, minimum lot size of one acre;
- (15) Landscaping;
- (16) Parking facilities;
- (17) Fences;
- (18) Any incidental repair, processing and storage necessary to conduct a principal use, but not exceeding 30% of the floor space of the principal building;
- (19) Essential services - telephone, telegraph and power distribution poles and lines and necessary appurtenant equipment and structures;
- (20) On-off sale liquor establishment;
- (21) Freight transportation terminals;
- (22) Industry, such as a printing company, that requires direct contact with the public for sales;
- (23) Single dwelling units;
- (24) Commercial day care centers;
- (25) Solar energy farms;
- (26) Solar energy systems over ten kilowatts up to 100 kilowatts.

(C) *Performance standards.*

(1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed two and one half stories or 35 feet in height.

(2) *Front yard regulations.*

(a) Setbacks:

Required Setback Distance From Road Centerline	Road Class
130	State Highway
130	County Road and State Aid Highway
65	Local Road

(b) Where a lot is located at the intersection of two or more roads or highway side of each corner lot. No building shall project beyond the front yard line of either road.

(3) *Side yard regulations.*

(a) Minimum side yard shall be 20 feet.

(b) No building shall be located within 50 feet of any side lot line abutting a lot in any Residential or Agricultural District.

(4) *Rear yard regulations.*

(a) There shall be a minimum rear yard of 35 feet.

(b) No building shall be located within 50 feet of any rear lot line abutting a lot in any Residential or Agricultural District.

(5) *Lot width and depth regulations.* There shall be a minimum lot width and depth of 150 feet.

(6) *Sewage disposal and water system.* The developer shall be required to indicate the proposed water and sewage disposal systems to serve the development.

(7) *Screening and fencing.* The county may require the screening and fencing of commercial uses especially on side and rear yards facing residential and agricultural uses.

(8) *General regulations.* Requirements for signs, parking, shopping centers and other regulations are set forth in §§ 155.075 through 155.108 of this chapter.

(9) *Coverage.* No more than 50% of the lot ground area shall be covered by buildings.

(D) *Multiple use buildings.* In general, only one principal use may be permitted per lot. Where buildings are proposed which will contain more than one use, each use or change of use shall require a separate conditional use permit.

(Ord. passed 7-28-2015; Ord. 16-8, passed 12-27-2016)

§ 155.055 GENERAL INDUSTRY DISTRICT (I-1).

(A) *Purpose.* The intent of the I-1 General Industry District is to provide a district that will:

- (1) Allow general industrial development related to the existing development in the urban communities of the county;
- (2) Encourage development that is compatible with surrounding or abutting districts; and
- (3) Provide developmental standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

(B) *Conditional uses.*

- (1) Subdivisions, minimum lot size of one acre;
- (2) Bottling establishments;
- (3) Building material sales and storage and lumber yards;
- (4) Camera and photographic supplies manufacturing;
- (5) Cartage and express facilities;
- (6) Cartography and bookbinding;
- (7) Commercial radio and television transmitting stations and towers;
- (8) Contractor's offices, shops and yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air conditioning, masonry, electrical and refrigeration;
- (9) Dry cleaning plants;
- (10) Electric light or power-generating stations;
- (11) Electrical and electronic products manufacturers;
- (12) Electrical service shops;
- (13) Engraving, printing and publishing;
- (14) Extraction, processing or storage of sand, gravel, stone or other minerals, bituminous plants and concrete mixing plants;
- (15) Farm implement dealerships;
- (16) Feed and fertilizer manufacturing;
- (17) Freight terminal;
- (18) Garage for storage, repair and servicing of motor vehicles;
- (19) Highway maintenance shops and yards;
- (20) Ice sales and storage;
- (21) Jewelry manufacturer;
- (22) Junk yards, salvage yards, sanitary landfills;
- (23) Laundries;
- (24) Medical, dental and optical laboratories;
- (25) Monument works;
- (26) Public service structures, including power substations, gas regulator stations, sewage disposal plant, telephone

exchange, police or fire station, elevated tanks, water works and other essential utilities;

(27) Railroad rights-of-way and railroad yards;

(28) Slaughter houses;

(29) Storage or warehousing;

(30) Wholesale business and office establishments;

(31) Any use permitted in the B-2 General Business District;

(32) Any manufacturing, fabrication, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products which conform with the performance standards set forth for this district;

(33) Solar energy farms;

(34) Solar energy systems over ten kilowatts up to 100 kilowatts.

(C) *Conditions.*

(1) Storm drainage facilities shall be provided.

(2) Municipal sanitary sewer and water shall be provided or a substitute acceptable to the Environmental Health Officer.

(3) The County Planning Commission shall set additional conditions on any conditional use permit to carry out the intent of the Comprehensive Plan and this chapter.

(D) *Accessory uses.* Accessory uses customarily incidental to the uses permitted in division (B) above and shall be permitted accessory uses within a I-1 General Industry District.

(E) *Height, yard and lot width and building coverage regulations.*

(1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed four stories or 45 feet in height.

(2) *Front yard regulations.*

(a) There shall be a front yard setback of not less than 130 feet from the centerline of U.S. highways and state highways and 130 feet from the centerline of all county state aid highways and county highways.

(b) There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way.

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

(3) *Side yard regulations.* A minimum side yard of 25 feet shall be required; except that, no building shall be located within 50 feet of any side lot line abutting any residence district.

(4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 35 feet, except that no building shall be located within 50 feet of any rear lot line abutting a lot in zoned for a Residential or Agricultural use.

(5) *Lot width and depth regulations.* There shall be a minimum lot width and depth of 150 feet.

(6) *Lot coverage regulations.* Not more than 50% of the total area of a lot shall be covered by buildings.

(F) *General regulations.* Additional requirements for signs, parking and other regulations in the I-1 General Industry District are set forth in §§ 155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 18-2, passed 6-19-2018)

§ 155.056 FLOODPLAIN OVERLAY DISTRICT (FP).

(A) *Authorization, findings and purpose.*

(1) The legislature of the state has, in M.S. §§ 103F.101 through 103F.165 and M.S. Ch. 394, as they may be amended from time to time delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the following regulations are incorporated into this chapter.

(2) The flood hazard areas of the county are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the state's Department of Natural Resources.

(3) The standards in this district have been developed from the "Sample Three District Floodplain Management Ordinance - One Map Format" promulgated by the Department of Natural Resources. Changes have been made to adjust the model to fit within this chapter, but in no case have provisions been made less strict than the sample ordinance.

(4) The Floodplain Overlay District shall apply in addition to all standards within the primary zoning district and applicable shoreland regulations. In case of conflict between any such standards, the most restrictive shall apply. The Floodplain Overlay

District shall be comprised of three areas as specified in divisions (C), (D) and (E) below.

(B) *General provisions.*

(1) *Application.* The Floodplain Overlay District shall apply to all lands within the jurisdiction of the county shown on the zoning map and/or attachments thereto as being located within the boundaries of the floodway, flood fringe or general floodplain areas.

(a) *District Map.* The zoning map is hereby amended to include the Flood Insurance Study for Wright County, Minnesota - Unincorporated Areas, prepared by the Federal Insurance Administration dated 8-18-1992 and the Flood Insurance Range Maps dated 8-8-1992, as they may be updated and amended. These maps shall be on file in the offices of the County Auditor/Treasurer and Zoning Administrator.

(b) *Interpretation.*

1. The provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes. The boundaries of the zoning areas shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data.

2. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

(2) *Abrogation and greater restrictions.* It is not intended by these regulations to repeal, abrogate or impair any existing 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.

(3) *Warning and disclaimer of liability.* This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(4) *Compliance.*

(a) No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general floodplain areas, all uses not listed as permitted uses or conditional uses in divisions (C), (D) and (E) below shall be prohibited.

(b) New and replacement manufactured homes and mobile homes, as defined by this chapter, and certain travel trailers are subject to the special provisions in division (H) below.

(c) Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 155.008 of this chapter.

(d) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in division (I) below.

(C) *Floodway area.*

(1) *Floodway area.* The floodway area shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in division (B)(1) above.

(2) *Permitted uses.* Shall have a low flood damage potential, be permitted in the primary zoning district and not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(a) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, 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; and

(d) Residential lawns, gardens, parking areas and play areas.

(3) *Conditional uses.*

(a) Structures accessory to the uses listed in division (C)(2) above and the uses listed below;

- (b) Extraction and storage of sand, gravel and other material;
- (c) Marinas, boat rentals, docks, piers, wharves and water control structures;
- (d) Railroads, streets, bridges, utility transmission lines and pipelines;
- (e) Storage yards for equipment, machinery or materials;
- (f) Placement of fill;

(g) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 155.056(H); and

(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-year frequency flood event.

(4) *Standards for floodway conditional uses.*

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

(b) *Conditional uses.* All floodway conditional uses shall be subject to the procedures and standards contained in division (1)(6) below.

(c) *Fill.*

1. 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.

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

3. As an alternative, and consistent with division (C)(4)(c)2. above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood, but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available.

(d) *Accessory structures.*

1. Accessory structures shall not be designed for human habitation.

2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and so far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the Minnesota 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 Minnesota State Building Code; provided, the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate.

a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.

b. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

(e) *Storage of materials and equipment.*

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

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

(f) *Structural works.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. § 103F.205, as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

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

(D) *Flood fringe area.*

(1) *Flood fringe area.* The flood fringe shall include those areas designated as floodway fringe. The flood fringe shall constitute those areas shown on the Flood Insurance Rate Map as adopted in division (B)(1) above as being within Zone AE, but being located outside of the floodway.

(2) *Permitted uses.* Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning district(s). All permitted uses shall comply with the standards for all flood fringe permitted and conditional uses listed herein.

(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 foot below the regulatory flood protection Elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(b) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood-proofed in accordance with division (C)(4)(d)2. above.

(c) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(3) *Conditional uses.* Conditional uses shall be those uses or structures listed as conditional uses in the underlying zoning district, those structures proposed to be flood-proofed by methods other than elevating on fill, and the storage of materials or equipment on flood fringe lands not elevated above the regulatory flood protection elevation. An application for a conditional use shall be subject to all standards and criteria listed in division (D) above and elsewhere in this chapter.

(a) 1. 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 and the like 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:

- a. The enclosed area is above-grade on at least one side of the structure;
- b. Is designated to internally flood and is constructed with flood-resistant materials; and
- c. Is used solely for parking of vehicles, building access or storage.

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

a. 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 Minnesota 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.

b. Specific standards for above-grade, enclosed areas above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

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

ii. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the Minnesota State Building Code and shall be used solely for building access, parking of vehicles or storage.

(b) Basements, as defined by § 155.003(B) of this chapter, shall be subject to the following.

1. Residential basement construction shall not be allowed below the regulatory flood protection elevation.

2. Non-residential basements may be allowed below the regulatory flood protection elevation; provided, the basement is structurally dry flood-proofed in accordance with division (D)(3)(c) below.

(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 Minnesota State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the Minnesota 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 time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(e) Storage of materials and equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(4) *Standards for all flood fringe uses.*

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

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

(c) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (D)(4)(b) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

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

(e) *Effect.* 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) *Manufactured homes and the like.* Standards for manufactured homes, travel trailers and travel vehicles are contained in division (H) below.

(E) *General floodplain area.*

(1) *General floodplain area.* The general floodplain shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in division (B)(1) above.

(2) *Use regulations.*

- (a) The uses listed in division (C)(2) above shall be permitted uses.
- (b) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to division (E)(3) below. Division (C) above shall apply if the proposed use is in the Floodway District and division (D) above shall apply if the proposed use is in the Flood Fringe District.

(3) *Procedures for floodway and flood fringe determinations within the General Floodplain District.*

(a) Upon receipt of an application for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high water information.
2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedure consistent with Minn. Regulations 1983, parts 6120.5000 through 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood;

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

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(c) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and 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 boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of divisions (C) and (D) above.

(F) *Subdivisions.*

(1) *Review criteria.* No land shall be subdivided which is unsuitable for the reasons of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(2) *Floodway/flood fringe determinations in the General Floodplain District.* In the General Floodplain District, applicants shall provide the information required in division (E)(3) above to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

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

(G) *Public utilities, railroads, roads and bridges.*

(1) *Public utilities.* 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 Minnesota State Building Code or elevated to above the regulatory flood protection elevation.

(2) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall comply with divisions (C) and (D) above. 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.

(H) *Manufactured homes and manufactured home parks and placement of travel trailers and travel vehicles.*

(1) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by division (F)(1) above.

(2) 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 division (D) above. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with division (D)(4) above; then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(3) 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.

(4) (a) Travel trailers and travel vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (H)(6) and (H)(7) below.

(b) Exemption: travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (H)(5) below and further they meet the following criteria:

1. Have current licenses required for highway use;

2. Are highway ready (meaning on wheels or the internal jacking system) are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it; and

3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(5) Areas exempted for placement of travel/recreational vehicles:

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

(6) Travel trailers and travel vehicles exempted in division (H)(4) above, lose this exemption when development occurs on the parcel for structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in divisions (C) and (D) above.

(7) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following.

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts; provided, said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (H)(7)(a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of division (I) (6) below. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with state rules.

(I) *Administration.* In addition to the requirements in §§155.025 through 155.030 of this chapter, the following shall apply.

(1) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, in the Floodplain Overlay District, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(2) *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 chapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

(3) *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 or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or additions to structures are flood-proofed.

(4) *Variances.* No variance shall permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.

(5) *Flood insurance notice and record keeping.*

(a) The Zoning Administrator shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

2. Such construction below the 100-year or regional flood level increases risks to life and property.

(b) Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(6) *Conditional use permits.* In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this chapter, and:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments;

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

(d) The susceptibility of the proposed facility and its contents to the flood damage and the effect of such damage on the individual owner;

- (e) The importance of the services provided by the proposed facility to the community;
 - (f) The requirements of the facility for a waterfront location;
 - (g) The availability of alternative locations not subject to flooding for the proposed use;
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
 - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- and
- (l) Such other factors which are relevant to the purposes of this chapter.

(7) *Amendments.*

(a) 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 regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(b) All amendments to this 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 days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. 16-2, passed ---; Ord. 18-4, passed 6-19-2018)

§ 155.057 SHORELAND ZONING REGULATIONS.

(A) *Purpose.* The major purpose of the shoreland regulations is to control the density and location of developments in the shorelands of the public waters of the county in order to preserve the water quality and the natural characteristics of the shorelands and public waters in the county. These regulations conform to the standards and requirements of the state's Shoreland Management Act.

(B) *Classification system.* Waterbodies in the county have been divided into lake and river classifications in accord with the state's DNR shoreland management standards. The three categories of lakes are natural environment, recreational development, and general development. General development and recreational development lakes are larger in size and potentially more suitable for development and recreation purposes and can thus support a higher density of residential development on the shoreland. Natural environment lakes are smaller, often marshy in character, and require stricter shoreland standards to protect the quality of the lake resource. The three categories of rivers used in the county are transition, agriculture and tributary. Transition river areas have a mixture of land uses and development densities. Agriculture rivers are located in intensively cultivated areas and have potential for additional development, however, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions. Tributary rivers also have a wide variety of existing land uses. There is potential for additional development and recreational use, particularly those located near roads and cities. For a more thorough review of the classification system, reference is made to the state's DNR statewide standards.

(C) *Lakes classifications.*

(1) The shorelands zoning regulations of the county will apply to all lakes classified as either natural environment (NE), recreational development (RD) or general development (GD) by the Department of Natural Resources (DNR).

(2) The following lakes as mapped on the protected waters and wetlands map, 1984, by the Department of Natural Resources, incorporated herein by reference, are included under the Shoreland Zoning District:

Lake ID #	Lake Name	Classification
Lake ID #	Lake Name	Classification
100128	Swan	NE
430020	Coon	NE
470001	Maple	NE
470002	Francis	GD
730014	Marie	RD
860001	Foster	NE
860002	Rice	NE
860008	Unnamed	NE

860009	Martha	GD
860010	Wagner	NE
860011	Charlotte	GD
860015	School	NE
860016	Unnamed	NE
860017	Uhl	NE
860018	Unnamed	NE
860019	Gonz	NE
860020	Wilhelm	RD
860021	Mud	NE
860022	Steele	NE
860023	Beebe	RD
860024	Unnamed Wetland	NE
860025	School	NE
860026	Mud	NE
860027	Unnamed	NE
860028	Moore	NE
860029	Schmidts	NE
860031	Pelican	NE
860032	Rice	NE
860033	Unnamed	NE
860034	Cedar	NE
860035	Unnamed	NE
860036	Unnamed	NE
860038	Mud	NE
860039	Unnamed	NE
860041	Dean	RD
860042	Unnamed	NE
860043	Unnamed (Aka Rooney)	NE
860044	Mud	NE
860046	Crawford	RD
860047	Unnamed	NE
860048	Cook	NE
860049	Mary	NE
860050	Wrens Slough	NE
860051	Constance	RD
860053	Pulaski	GD
860056	Washington	NE
860061	Schmidt	NE
860062	Unnamed	NE
860063	Green Mountain	NE
860064	Gilchrist	NE
860065	Unnamed	NE
860066	Birch	RD
860068	Mud	NE
860069	Long	NE
860070	Bertram	NE
860071	East Twin	NE
860072	North	NE
860073	Cedar	RD
860075	Unnamed	NE
860078	Slough	NE

860082	Paradise	NE
860084	Unnamed	NE
860085	Mud	NE
860086	Fountain	NE
860087	Faust Slough	NE
860088	Mink	RD
860089	Tamarack	NE
860090	Buffalo	GD
860091	Varner	RD
860092	Little Ida	NE
860093	Slough	NE
860094	West Twin	NE
860095	Black	NE
860096	Black	NE
860097	Carrigan	NE
860098	Unnamed	NE
860099	Ruckles	NE
860100	Lauzers	NE
860101	Dog	NE
860102	Pooles	NE
860103	Ida	NE
860105	Unnamed	NE
860106	Little Waverly	RD
860107	Deer	RD
860108	Goose	NE
860109	Fadden	NE
860110	Unnamed	NE
860111	Unnamed	NE
860112	Malardi	NE
860114	Waverly	GD
860116	Birch	NE
860119	Sullivan	RD
860120	Ramsey	RD
860122	Light Foot	RD
860123	North Twin	NE
860124	Unnamed	NE
860125	Mary	NE
860126	South Twin	NE
860127	Albert	NE
860128	Unnamed	NE
860129	Unnamed	NE
860131	Berthiaume	NE
860132	Abbie	NE
860133	Angus	NE
860134	Maple	GD
860136	Unnamed	NE
860137	Maria	NE
860139	Little Mary	NE
860140	Silver	RD
860142	Slough	NE
860146	Ida	GD
860147	Little Eagle	RD

860148	Eagle	GD
860152	Millstone	NE
860153	Unnamed	NE
860154	Unnamed	NE
860156	Mary	RD
860157	Unnamed	NE
860158	Unnamed	NE
860159	Unnamed	NE
860161	West	NE
860163	Limestone	RD
860164	Rice	NE
860165	Unnamed	NE
860168	Locke	GD
860170	Twin	NE
860171	Ember	NE
860172	Unnamed	NE
860174	North	NE
860176	Melrose	NE
860177	Yaeger	NE
860178	Dog	RD
860179	Mains	NE
860180	School Section	NE
860181	Little Rock	NE
860182	Rock	RD
860183	Fish	RD
860184	Dutch	RD
860185	Mud	NE
860187	Milky	NE
860188	Emma	RD
860190	Ann	RD
860191	Unnamed	NE
860192	Round	NE
860193	Mary	RD
860194	Long	NE
860196	Unnamed	NE
860197	Maple	NE
860198	Butler	NE
860199	Howard	GD
860200	Spring	NE
860202	Junkins	NE
860203	Unnamed	NE
860204	Taylor	NE
860206	Doerfler	NE
860208	Swart Watts	NE
860209	Willima	NE
860210	Henry	NE
860211	Edward	NE
860212	Albion	NE
860213	Henshaw	NE
860214	White	NE
860215	Slough	NE
860216	Abbey	NE
860217	Granite	RD

860218	Maxim	NE
860219	Mud	NE
860220	Unnamed	NE
860221	Camp	RD
860222	Unnamed	NE
860223	Indian	RD
860224	Sandy	NE
860225	Unnamed	NE
860227	Cedar	GD
860229	Mink	RD
860230	Somers	RD
860233	Sugar	GD
860234	Bass	GD
860238	Nixon	NE
860239	Sheldon	NE
860241	Cornell	NE
860242	Wiegand	NE
860243	Grass	NE
860244	Unnamed	NE
860245	Unnamed	NE
860246	Long	NE
860250	Smith	NE
860251	Pleasant	GD
860252	Clearwater	GD
860253	Butternut	NE
860254	Unnamed	NE
860255	Shakopee	NE
860256	Chelgren	NE
860257	Grass	NE
860258	Unnamed	NE
860259	Unnamed	NE
860261	Unnamed	NE
860263	Cokato	RD
860264	Brooks	RD
860265	Dahlgren Slough	NE
860266	Skifstrom	NE
860268	Unnamed	NE
860270	Unnamed	NE
860271	Moses	RD
860273	French	RD
860274	Dans	NE
860275	Unnamed	NE
860277	Unnamed	NE
860278	Goose	NE
860279	West Sylvia	GD
860280	Pickerel	NE
860281	Caroline	RD
860282	Louisa	GD
860284	Augusta	RD
860285	Unnamed	NE
860286	Little John	NE
860288	John	RD

860289	East Sylvania	GD
860290	Unnamed	NE
860292	Unnamed	NE
860293	Collinwood	RD
860295	Swan	NE
860296	Beaver Dam	NE
860297	Scott	NE
860298	Union	RD
860301	Unnamed	NE

(D) *River and stream classifications.*

(1) The shorelands zoning regulations of the county will apply to all rivers as follows (except the Mississippi River which is zoned wild and scenic):

River	Classification
Clearwater River	Agriculture
Crow River (main stem)	Agriculture
North Fork of the Crow River	Transition
South Fork of the Crow River	Agriculture

(2) All other water courses shown on the protected waters inventory map of the county which are not classified above are assigned a classification of tributary.

(E) *Shoreland performance standards.*

(1) *General performance standard for lakes.*

(a) Performance standards in shoreland areas are additional to standards of the primary zoning district. In case of a conflict, the stricter standard shall apply as well as any additional requirements if floodplain elevations have been established.

(b) The minimum lot size of the underlying zoning district applies only where soil percolation tests indicate the lot is sufficiently large to provide for the drainfield and septic tank setbacks required by this chapter.

1. *General development minimum standards.*

Elevation of lowest floor above highest known water level	4 ft.
Height	2-1/2 stories (35 ft.)
Structure setback from bluff	30 ft.
Structure setback from NOHW	75 ft.
Water oriented accessory structure setback from NOHW	10 ft.
NOTES TO TABLE: The lot width may be reduced to 100 feet if public sewage treatment facilities are provided.	

2. *Recreational development standards.*

Elevation of lowest floor above highest known water level	4 ft.
Height	2-1/2 stories (35 ft.)
Structure setback from bluff	30 ft.
Structure setback from NOHW	100 ft.
Water oriented accessory structure setback from NOHW	10 ft.
NOTES TO TABLE: The lot width may be reduced to 100 feet if public sewage treatment facilities are provided.	

3. *Natural environment standards.*

Elevation of lowest floor above highest known water level	4 ft.
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Height	2-1/2 stories (35 ft.)
Lot depth	200 ft.
Lot size	2 acres
Lot width	200 ft.
Side yard setback	20 ft.
Structure setback from bluff	30 ft.
Structure setback from NOHW	200 ft.
NOTES TO TABLE: **Water oriented accessory structures are not permitted on natural environment lakes.	

(2) *General performance standards for rivers.* Performance standards in shoreland areas are additional to standards of the primary zoning district. In case of a conflict, the stricter standard shall apply as well as any additional requirements if floodplain elevations have been established.

(a) *Transition standards.*

Elevation of lowest floor above highest known water level	4 ft.
Height	2-1/2 stories (35 ft.)
Lot depth	200 ft.
Lot size	2 acres
Lot width	250 ft.
Side yard setback	20 ft.
Structure setback from bluff	30 ft.
Structure setback from NOHW	200 ft.
NOTES TO TABLE: ** Water oriented accessory structures are not permitted on transition rivers.	

(b) *Agriculture and tributary standards.*

Elevation of lowest floor above highest known water level	4 ft.
Height	2-1/2 stories (35 ft.)
Lot width	150 ft.
Structure setback from bluff	30 ft.
Structure setback from NOHW	100 ft.
Water oriented accessory structures setback from NOHW	10 ft.

(3) *Design criteria for certain structures.*

(a) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned unit developments;
2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties and planned unit developments;
3. Canopies or roofs are not allowed on stairways, lifts or landings;
4. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground; provided, they are designed and built in a manner that ensures control of soil erosion;
5. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions (E)(3)(a)1. through (E)(3)(a)5 are complied with.

(b) *Decks.* Decks must meet the structure setback standards. Decks that do not meet the structure 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:

1. 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;

2. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet or does not encroach closer than the existing legally placed structures on adjacent property, whichever is more restrictive; and

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

(c) *Water-oriented accessory structures and facilities.* All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. If allowed by water classification, each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

2. The setback of the structure or facility from the ordinary high water level must be at least ten feet;

3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color or other means assuming summer, leaf-on conditions;

4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6. For general development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(4) *Agriculture use standards.*

(a) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(b) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are allowed if permitted uses, if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency.

(c) Animal feedlots as defined by the state's Pollution Control Agency, where allowed by zoning district designations, must be reviewed as conditional uses and must meet the following standards:

1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins;

2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones; and

3. A certificate of compliance, interim permit or animal feedlot permit, when required by state's PCA regulations must be obtained by the owner or operator.

(d) 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 by proper application or use of earth or vegetation.

(5) *Land suitability.* Each lot created through subdivision must be suitable for development in its natural state for the proposed use with minimal alteration. Suitability analysis 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 divisions or of the community.

(F) *Special Protection Shorelands District (S-1).*

(1) *Purpose.*

(a) The intent of the S-1 Special Protection Shoreland District is to guide the wise development and utilization of shorelands of public waters for the preservation of water quality and natural characteristics of all public waters in the unincorporated areas of the county and to manage areas unsuitable for development due to wet soils, steep slopes or larger areas of exposed bedrock; and to manage areas of unique natural and biological characteristics in accordance with compatible uses.

(b) The S-1 Special Protection Shoreland District shall be an overlay district. Standards in the S-1 District shall apply in addition to those in the underlying district. In the case of a conflict, the stricter standard shall apply. Only the AG Zoning District will be allowed as underlying district with the S-1 District.

(c) On the following lakes all shoreland area surrounding the lake is designated as S-1. The county will conduct further studies, as resources become available, to determine the need to refine and extend the S-1 District to other areas.

<i>Lake</i>	<i>ID</i>
Beaver Dam	860296
Malardi	860112
Pelican	860031
Rice	860002

(2) *Permitted uses.* Permitted uses shall be those listed as permitted in the underlying zoning district; except that, no wetlands shall be drained to facilitate cultivation of shoreland areas within specified distances of lakes or streams depending upon topography.

(3) *Accessory uses.* Accessory uses customarily incident to the permitted uses.

(4) *Conditional uses.* Conditional uses in the underlying zoning district shall not be allowed in the S-1 District. Only those conditional uses listed below may be allowed:

(a) All approved aerial or underground utility line crossings such as electrical, telephone, telegraph or gas lines which cannot be reasonably located in other than a special protection district;

(b) Non-residential structures used solely in conjunction with raising wild animals or fish; provided, the structures are of a design approved by the Planning Commission as being compatible with other general allowable uses of the district;

(c) New agricultural feedlots;

(d) Development of parks and historic sites;

(e) Mining, sand and gravel extraction; and

(f) Other uses of the same general character as permitted uses; provided, they comply with the statewide standards for management of shoreland areas.

(5) *General regulations.* Requirements for signs, parking, sewage disposal and the like are set forth in §§155.075 through 155.108 of this chapter.

(G) *Residential-Recreational Shorelands District (S-2).*

(1) *Purpose.* The intent of the S-2 Residential-Recreational Shorelands District is to preserve areas which have natural characteristics suitable for both passive and active recreational usage and to manage areas suitable for residential development of varying types including permanent and seasonal housing. The S-2 Residential-Recreational Shorelands District shall be an overlay district. Standards in the S-2 District shall apply in addition to those in the underlying district. In the case of a conflict, the stricter standard shall apply. Only the AG, A/R, R-1, R-2 and R-2(a) Districts may be allowed as underlying districts with the S-2 District.

(2) *Permitted uses.* Permitted uses shall be those listed as permitted in the underlying zoning district.

(3) *Accessory uses.*

(a) Private garages;

(b) One water oriented accessory structure per lot;

(c) Park structures including shelter, toilets, storage buildings, garages, observation towers and caretakers living quarters; and

(d) Signs, as regulated in § 155.097 of this chapter.

(4) *Conditional uses.* In addition to the conditional uses listed below, those conditional uses listed in the underlying zoning district may be considered in the S-2 District. However, the Planning Commission shall give special consideration to conditional use permits in shoreland areas, in addition to the review specified in § 155.029 of this chapter. The Planning Commission may deny a conditional use permit in the shoreland district if the Commission finds that the use could have a detrimental effect on the lake or stream or that the proposed use is not suited to a shoreland area.

(a) Golf clubhouses, country club, public swimming pool, private swimming pools serving more than one family;

(b) Riding academies, stables;

(c) Organized group camps; and

(d) Home occupations.

(5) *General regulations.* Requirements for signs, parking, sewage disposal and the like shall be set forth in §§155.075 through 155.108 of this chapter.

(H) *Commercial-Recreational Shoreland District (S-3).*

(1) *Purpose.* The intent of the S-3 Commercial-Recreational Shorelands District is to provide suitable locations for, and to encourage the development of, commercial recreation facilities in those areas of the county which benefit the recreational needs of both residents and tourists and restrict incompatible commercial and industrial uses. S-3 Commercial-Recreational Shoreland District shall not be an overlay district, but shall be an exclusive district when used. It shall be the only district where commercial uses are allowed in the shoreland areas. Such uses shall be limited to those listed below. Performance standards shall be those listed in division (D) above and as otherwise applicable in this chapter. If any standards contained with Minn. Rules, parts 6120.2500 or 6120.3800 are more restrictive than this chapter the stricter standards shall apply.

(2) *Permitted uses.* None.

(3) *Conditional uses.*

- (a) Resort facilities to include lodges, guest houses and cabins;
- (b) Taverns where the main function is servicing a resort or recreational development;
- (c) Restaurants where the main function is servicing a resort or recreational development;
- (d) Golf courses and clubhouses;
- (e) Indoor theaters;
- (f) Sporting goods, establishments, outfitters and suppliers, bait shops and rental goods establishments;
- (g) Ski areas and lodges;
- (h) Single-family detached dwellings for personnel directly connected with the operating of resort or recreation facilities only, as regulated in S-2 Residential-Recreational Shorelands District;
- (i) Motels and auto courts;
- (j) Yacht slips, service and storage marinas, harbor and docking facilities subject also to all approved regulations and ordinances of governmental agencies for the same;
- (k) Recreational trailer parks and commercial camping facilities for short duration uses, subject to all requirements of this division (H);
- (l) Nature trails, snowmobile trails, ski trails and similar facilities;
- (m) Other commercial and industrial uses included in the B-1, B-2 or I-1 Districts, only if the use is to utilize an existing building located in the shoreland area which is not suited to being used as an otherwise permitted or conditional use. The Planning Commission must determine that the proposed use will not have an adverse impact on the lake or stream involved;
- (n) Solar energy farms;
- (o) Solar energy systems over ten kilowatts up to 100 kilowatts.

(4) *Accessory uses to allowed conditional uses.*

- (a) Swimming pools, saunas, outdoor recreational equipment and structures;
- (b) Boathouses, docks and piers; and
- (c) Storage garages.

(5) *Special district provisions.*

(a) Any principal structure hereafter erected, constructed, altered, moved or substantially renovated in any manner which includes in its function the providing of services, entertainment or lodging for residents or tourists shall be equipped with indoor toilet and running water (hot and cold) facilities, and adequate heating system based on floor area and occupancy criteria, and the facilities for maintaining access routes where operated on a year-round basis. It shall be the responsibility of the Zoning Administrator to evaluate or have evaluated the adequacy of utilities using standards established by the Board of County Commissioners and the state's Department of Public Health.

(b) Standards for commercial, industrial, public and semi-public uses.

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

a. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this 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 these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

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. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

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

iii. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

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

(6) *Recreational campground provisions.* Recreational campgrounds must meet the following requirements as well as any additional requirements set forth in the statewide standards for the management of shoreland areas.

(a) *Definition.* A **RECREATIONAL CAMP** shall constitute any area used on a daily, nightly or weekly basis for the accommodation of three or more occupied tents or travel trailers whether privately or publicly owned; and whether use of such accommodation is granted free of charge or for compensation.

(b) *Licensing.* Every person, organization or municipality establishing or having control of a recreational camping area shall obtain all necessary licenses and permits required by the state and the state's Health Department.

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

(d) *Recreational camping area location.* No recreational camping area shall be located that the drainage from the park or camp area will endanger any water supply. No waste water from recreational camping vehicles shall be deposited on the surface of the ground.

(e) *Recreational camping area spacing.* A site size appropriate to meet all spacing requirements shall be provided for each recreational camping vehicle or tent in camping areas. The Planning Commission shall determine the location, density, and spacing of recreational camping vehicles, tents, primary and accessory structures whether permanent or temporary based upon water supply and waste disposal facilities, topography, drainage and other locational and natural characteristics of the site. Any accessory structure such as attached awnings, carports or individual storage facilities shall, for the purposes of the setbacks and separation requirements, be considered to be part of the recreational camping vehicle, tent or other structure.

(f) *Density.* At least 50% of the total project area must be preserved as open space as defined in the state standards for shoreland management areas.

(g) *Water supply.* Facilities for water supply and waste disposal must meet the minimum requirements of the state's Health Department and any other state laws or regulations and the county standards for sewage treatment.

(h) *Garbage and refuse disposal.* All garbage and refuse shall be stored and disposed of in a manner that will not create or tend to create a nuisance, or provide a breeding place for flies. Garbage and refuse containers shall be constructed of non-absorbent materials with tight fitting lids. All containers shall be washed at least once each week and sprayed with effective insecticides. Garbage or refuse containers shall be supplied for each four camp sites, and shall be not more than 200 feet from the farthest site. Containers shall be emptied twice weekly or more often if required.

(i) *Picnic areas.* Picnic areas shall be provided with suitable toilets, or privies and refuse containers consistent with the usage demands. Such facilities shall be constructed in accordance with standards of the state's Health Department.

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

(k) *Submission of plans.*

1. No recreational vehicle camp shall be constructed nor shall any system of plumbing, sewage system, water supply or swimming pool for the vehicle camp be installed or altered until four plans drawn to scale have been submitted to and approved by the County Planning Commission and the state's Health Department.

2. An applicant for a recreational vehicle camping area conditional use permit shall submit a development plan for the proposed park, including the following:

- a. The proposed site and existing development;
- b. Proposed size, location and arrangement of buildings;

- c. Parking areas and stall arrangements;
- d. Entrance and exit drives;
- e. Proposed sewer and water system; and
- f. Recreation areas.

(7) *General regulations.* Requirements for signs, parking, sewage disposal and the like are set forth in §§155.075 through 155.108 of this chapter.

(Ord. passed 7-28-2015; Ord. 18-4, passed 6-19-2018)

§ 155.058 WILD AND SCENIC RIVER DISTRICT (W).

(A) *Purpose.* The purpose of this district is to protect and preserve the scenic, recreational, natural and historical values of the Mississippi River in the county by carefully controlling development of this river corridor consistent with the state's Wild and Scenic River Act and Minn. Regulations NR 78-81.

(B) *Designation of district.*

(1) In order to preserve and protect the Mississippi River and its adjacent land which possess scenic, recreational, natural and historical values, the Mississippi River in the county has been given a recreational river classification and lands adjacent to the river are hereby designated by land use districts, the boundaries of which are based upon the Mississippi River Management Plan, NR 2400.

(2) The boundaries of the Mississippi River Recreation Land Use District is shown on the county's zoning map which is made part of this chapter.

(C) *Permitted uses.*

- (1) Governmental campgrounds;
- (2) Public accesses, road access type with boat launching facilities;
- (3) Public accesses and trail access type;
- (4) Other governmental open space recreational uses;
- (5) Agricultural uses;
- (6) Single-family residential uses;
- (7) Forestry uses;
- (8) Essential services;
- (9) Private roads and minor public streets;

(10) Signs approved by federal, state or local government which are necessary for public health and safety and signs indicating areas that are available or not available for public use; and

(11) Government resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads.

(D) *Conditional uses.*

- (1) Private campgrounds, subject to management plan specifications, NR-2400;
- (2) Other private open space recreational uses;
- (3) Underground mining that does not involve surface excavation in the land use district;
- (4) Utility transmission power lines and pipelines;
- (5) Public roads; and
- (6) Residential subdivision subject to management plan specification NR-2400 and the county's land use plan.

(E) *Performance standards.*

(1) *Lot area regulations.*

- (a) The minimum lot size shall be two acres;
- (b) Lot width at building line: 200 feet; and
- (c) Lot width at ordinary high water mark: 200 feet.

(2) *Setback requirements.* (Also apply to tributaries designated in NR 24000.) Building setbacks:

- (a) From ordinary high water mark: 100 feet;

- (b) From bluffline: 30 feet;
- (c) From side yard: 30 feet for principal use and accessory uses over 800 square feet;
- (d) Other accessory uses: ten feet;
- (e) From roads: county or state highway 130 feet from centerline;
- (f) Township or other road: 65 feet from centerline;
- (g) From rear yard (non-riparian): 50 feet;

(3) *General setbacks and standards:*

- (a) On-site sewage treatment system setback from ordinary high water mark: 75 feet;
- (b) Maximum structure height: 35;
- (c) Controlled vegetative cutting area setback from ordinary high water mark: 100 feet.
- (d) No structure shall be placed on any slope greater than 13% (13 feet vertical rise in 100 feet horizontal distance) unless such structure can be screened and sewage disposal system facilities can be installed.
- (e) No structures shall be placed in any floodway. Structures proposed within a floodplain shall be consistent with the Floodplain District of this chapter.
- (f) For substandard lots of record, setback standards may be reduced to coincide with the Urban/Rural Transition (R-1) District (§ 155.049(F)(7) of this chapter).

(4) *Substandard lots.* Lots of record in the office of the County Recorder on the effective day of enactment of this chapter which do not meet the dimensional requirements of this chapter shall be allowed as building sites, provided: such use is permitted in the land use district(s); the lot was in separate ownership on the date of enactment of this chapter; all sanitary and dimensional requirements are complied with, as practicable; and the lot is at least 20,000 square feet in area.

(5) *Vegetative cutting.*

- (a) Within the controlled vegetative cutting areas, clear cutting, except for any authorized public services such as roads and utilities, shall not be permitted.
- (b) Selective cutting of trees in excess of four inches in diameter at breast height shall be permitted providing cutting is spaced in several cutting operations and a continuous tree cover is maintained.
- (c) The above cutting provisions shall not be deemed to prevent:
 - 1. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards; and
 - 2. Pruning understory vegetation, shrubs, plants, bushes, grasses or from harvesting crops or cutting suppressed trees or trees less than four inches in diameter at breast height.

(6) *Clear cutting.* Clear cutting anywhere in the designated land use district on the Mississippi River is subject to the following standards and criteria.

- (a) Clear cutting shall not be used as a cutting method where soil, slope or other watershed conditions are determined by the zoning authority to be fragile and subject to severe erosion and/or sedimentation.
- (b) Clear cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
- (c) The size of clear-cut blocks, patches or strips shall be kept at the minimum necessary.
- (d) Where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring or the following spring.

(7) *Grading, filling, alterations of beds of public waters.* Any grading and filling work done shall require a permit and shall comply with the following.

- (a) Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be permitted.
- (b) Grading and filling of the natural topography which is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the zoning authority.
- (c) Grading and filling of the natural topography which is accessory to permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing and the destruction of natural amenities.
- (d) Grading and filling of the natural topography shall also meet the following standards.
 - 1. The smallest amount of bare ground is exposed for as short a time as feasible.

2. Temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
3. Methods to prevent erosion and to trap sediment are employed.
4. Fill is established to accepted engineering standards.

(8) *Utility transmission lines.* All utility transmission crossings of land within the Mississippi River land use district(s) shall require a conditional use permit. The construction of such transmission services shall be subject to the standards and criteria of the Minn. Regulations NR 79(i)(2).

(9) *Public roads.* In addition to such permits as may be required by M.S. §§103G.301 through 130G.315, as it may be amended from time to time, a conditional use permit shall be required for any construction or reconstruction of new public roads within the Minnesota River land use district(s). Such construction or reconstruction shall be subject to the standards and criteria of Minn. Regulations NR 79(j)(2). A conditional use permit is not required for minor public streets which are streets intended to serve primarily as an access to abutting properties.

(10) *Land suitability.* No land shall be subdivided which is determined by the governing body, or the Commissioner, to be unsuitable by reason of flooding, inadequate drainage, soil and rock formation with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community.

(11) *Planned cluster development.* A planned cluster development may be allowed subject to the requirements of § 155.059 of this chapter only when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands and other features of the natural environment than traditional subdivision development. Except for minimum setbacks and height limits, altered dimensional standards may be allowed as exceptions to this chapter for planned cluster developments; provided:

- (a) Preliminary plans are approved by the Commissioner prior to their enactment by the governing body.
- (b) Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the state's Department of Health and the Pollution Control Agency.
- (c) Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, granting of scenic easements or other methods.
- (d) There is not more than one centralized boat launching facility for each cluster.

(12) *General regulations.* Requirements for signs, parking, sewage disposal and the like are set forth in §§155.075 through 155.108 of this chapter.

(F) *Notification of proposed zoning amendments, variances and inconsistent plats.*

(1) The Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of any application for a zoning amendment including proposed changes to district lines, variances and plats which are inconsistent with the local land use ordinance for certification. A copy of the notice of any public hearing, or where a public hearing is not required, a copy of the application for zoning amendment, variances and inconsistent plats shall be sent so as to be received by the Commissioner at least 30 days prior to such hearing or meeting to consider such action. The notice of application shall include a copy of the proposed ordinances or amendment, or a copy of the proposed inconsistent plat or a description of the requested variances.

- (2) The county shall notify the Commissioner of its final decision on the proposed action within ten days of the decision.
- (3) The action becomes effective when and only when either:
 - (a) The final decision taken by the county has previously received certification of approval from the Commissioner;
 - (b) The county receives certification of approval after its final decision;
 - (c) Thirty days have elapsed from the day the Commissioner received notice of the final decision, and the county has received from the Commissioner neither certification of approval nor notice of non-approval; or
 - (d) The Commissioner certifies his or her approval within 30 days after conducting a public hearing.
- (4) In case the Commissioner gives notice of non-approval of an ordinance, variance or inconsistent plat, either the applicant or Zoning Administrator may, within 30 days of said notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within 30 days, the notice of non-approval becomes final.
 - (a) The hearing will be held within 60 days of the demand and after at least two weeks published notice.
 - (b) The hearing will be conducted in accordance with M.S. § 103G.311, as they may be amended from time to time.
 - (c) The Commissioner shall either certify his or her approval or disapproval of the proposed action within 30 days of the hearing.

(Ord. 16-2, passed ---; Ord. 18-4, passed 6-19-2018)

§ 155.059 PLANNED UNIT DEVELOPMENT (PUD).

- (A) *Purpose.* The purpose of the Planned Unit Development District is: to encourage flexibility in the design and

development of land in order to promote its appropriate use; to facilitate the adequate and economical provisions of streets and utilities; and to preserve natural and scenic qualities. The PUD District shall be an overlay district, however, it shall apply only to specific projects which have been approved through the procedures outlined herein. If any standards contained with Minn. Rules parts 6120.2500 or 6120.3800 are more restrictive than this chapter the stricter standards shall apply.

(B) *General standards.*

(1) Three types of PUD projects may be approved, dependent upon the primary zoning district and the standards outlined below.

(a) A standard PUD may include lands within any one, or more than one, primary zoning district.

(b) A rural PUD shall include lands only within the Agricultural/Residential (A/R) district.

(c) A resort conversion PUD shall include only lands which exist as a resort and lie within the Commercial Recreation Shorelands (S-3) District.

(2) Except in the case of a resort conversion, every PUD District must contain a minimum of 20 acres of contiguous land to be treated as a unified project.

(3) In addition to the general standards for zoning amendments in §155.028 of this chapter, the Planning Commission may recommend the establishment of a PUD district only if it finds that the proposal satisfies the following criteria:

(a) The planned unit development is consistent with the Comprehensive Plan of the county;

(b) The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain and similar areas; and

(c) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.

(C) *Number of units.*

(1) *Standard planned unit development.*

(a) In the planned unit development, the number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density control provisions of the zoning district(s) in which the land is located. If the planned unit development is in more than one zoning district, the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate zone, and must then be combined to determine the number of dwelling units allowable in the entire planned unit development.

(b) The Planning Commission shall determine the number of dwelling units which may be constructed within the planned unit development by dividing the net acreage of the project area by the required lot area per dwelling unit which is required in the district which the planned unit development is located. The net acreage shall be defined as the project area less the land area dedicated for public streets. Fractional results shall be rounded to the nearest whole number.

(2) *Rural planned unit development.* For a rural planned unit development, the number of dwelling units shall be determined by multiplying the gross acreage of the project area by six-fortieths. Fractional results shall be rounded to the nearest whole number. Multi-family structures shall not be permitted in a rural PUD.

(3) *Resort conversion planned unit development.* For a resort conversion planned unit development, the number of dwelling units shall not exceed the number of dwellings or rental units (excluding campsites) which legally exist at the resort prior to the conversion. The conversion must also comply with all state Department of Natural Resource standards and provide proof of ability to meet all state and local sewage treatment standards.

(D) *Coordination with Ch. 154 of this code of ordinances.*

(1) It is the intent of this chapter that subdivision review under Ch. 154 of this code of ordinances be carried out simultaneously with the review of a planned development under this chapter of the zoning ordinance. All PUD proposals must be platted.

(2) The plans required under this section must be submitted in a form which will satisfy the requirements of Ch. 154 of this code of ordinances for the preliminary and final plats required under those regulations.

(E) *Variiances.* It is the intent of this section, planned unit development, to provide a means to allow variances from the provisions of this chapter including lot sizes, setbacks, height and similar regulations

not including parking requirements, off-street loading, necessary landscaping and the like. Variances may be granted for the planned unit developments under the following conditions.

(1) Certain regulations contained in this chapter may not realistically apply to the proposed development due to its unique nature.

(2) The variances, if granted, would be fully consistent with the general intent and purpose of this chapter.

(3) The planned unit development would produce development of equal or superior quality to that which would result from strict adherence to the provision of this chapter.

(4) The variances will not constitute a threat to the property values, safety, health and general welfare of the owners or occupants of adjacent or nearby land, nor be detrimental to the health, safety, morals and general welfare of the people of the county.

(5) It shall be determined that the variances are required for a reasonable and practical physical development according to a comprehensive development plan and are not required solely on the basis of financial considerations.

(6) Except in the case of a resort conversion, or when a community water and sewer system will be provided, lot sizes shall meet or exceed the minimum standards set forth for the Urban/Rural Transition (R-1) Zone.

(F) *Procedure; establishment of PUD.*

(1) General procedures for the establishment of a PUD district shall be the same as for rezoning, as outlined in §155.028 of this chapter. In addition, applications for the establishment of a PUD District shall be accompanied by an outline development plan.

(2) An outline development plan must include both maps and written statements, and must show enough of the area surrounding the proposed planned unit development to demonstrate the relationship of the planned unit development to adjoining uses.

(3) The maps which are part of the outline development plan may be in general schematic form, and must contain the following information:

(a) The general topographic character of the land;

(b) Existing and proposed land uses and the approximate location of buildings, lots, utilities and unique development features of the site;

(c) The location of existing and proposed roads; and

(d) Public uses, including schools, parks, playgrounds and other open spaces.

(4) The written statement to accompany the outline development plan must contain the following information:

(a) An explanation of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations;

(b) A statement of the present ownership of all of the land included within the planned development;

(c) A general indication of the expected schedule of development including progressive phasing and time schedules;

(d) A statement of preliminary approval from the township board, which indicates that any proposed roads will be accepted as township roads; and

(e) Proposed uses and ownership of undeveloped land and common open space.

(5) After review by the Planning Commission, the outline development plan shall be submitted to the County Board for its final decision on establishment of the PUD District.

(G) *Procedure; preliminary development plan approval.*

(1) General procedures for the approval of a preliminary development plan shall be the same as for the approval of a conditional use permit for a preliminary plat, as outlined in Ch. 154 of this code of ordinances and §155.029 of this chapter. If more than 90 days elapses between the establishment of the PUD District and approval of a preliminary development plan, the Planning Commission may order renotification of nearby property owners before final approval.

(2) The preliminary development plan must include all of the following information, in addition to that required for a preliminary plat:

(a) Proposed uses and location of common open space and restricted lands;

(b) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, public buildings and similar public and semi-public uses;

(c) A plot plan for each building site and common open area, showing the approximate location of all buildings, structures and improvements;

(d) Elevation and perspective drawings for all proposed structures and improvements except single-family residences and their accessory buildings;

(e) A development schedule indicating:

1. The approximate date when construction of the project can be expected to begin;

2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;

3. The approximate dates when the development of each of the stages in the development will be completed; and

4. The area and location of common open space that will be provided at each stage.

(f) Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open areas or restricted lands; and

(g) Any other plans or studies determined necessary by the Planning Commission to protect the public health, safety or welfare.

(3) In its final approval of a preliminary development plan, the Planning Commission may include conditions which must be met before approval of a final development plan, and also conditions which are permanent. Only the permanent conditions need be recorded.

(H) *Final development plan.*

(1) A final development plan shall be submitted which meets the same requirements as a final plat in Ch. 154 of this code of ordinances.

(2) If no final development plan is submitted within six months of approval of the preliminary development plan, the Planning Commission may revoke approval of the preliminary development plan.

(3) The final development plan shall comply in all respects with the approved preliminary development plan. Changes in the approved preliminary development plan shall require an amended conditional use permit.

(4) Roads and other improvements, including improvements to common open spaces, must be completed prior to recording the final development plan, unless adequate financial guarantees are provided the county in accord with Chapter 154 of this Code of Ordinances.

(5) After recording the final development plan, no alterations of the approved preliminary development plan may be made by the developer unless approved by the Planning Commission. Minor changes in the siting of single-family dwellings and accessory structures may be approved by the Zoning Administrator.

(I) *Common open space.*

(1) Except for the establishment of restricted lands in a rural planned unit development, as provided in division (J) below, all lands shown on the preliminary development plan as common open space must be conveyed under one of the following options. Under no circumstances may lands used to calculate the number of units be transferred or used for any purpose not included in the approved preliminary development plan.

(a) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it.

(b) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restrict the open space to the uses specified on the preliminary development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

(2) The following standards shall be used by the Planning Commission to review the provision of common open spaces.

(a) The location, shape, size and character of the common open space must be suitable for the planned development.

(b) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned unit development, considering its size, density, expected population, topography and the number and type of dwellings to be provided.

(c) Common open space must be suitably improved for its intended use, but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

(d) The development schedule which is part of the preliminary development plan must coordinate the improvement of the common open space, the construction of buildings, structures and improvements in the common open space, and the construction of residential dwellings in the planned unit development.

(e) If the preliminary development plan provides for buildings, structures or improvements in the common open space, the developer must provide a bond or other adequate assurance that the buildings, structures and improvements will be completed.

(J) *Restricted lands.*

(1) In general, the creation of restricted lands shall be for the purpose of preserving productive agricultural land while providing for the clustering of residential sites on non-productive land. Such use will only be permitted within a rural PUD.

(2) (a) Unlike common open space, restricted lands used to calculate the number of units may be transferred and/or used for private purposes unrelated to the PUD.

(b) However, restricted lands may not be developed for residential or commercial uses, but shall be strictly limited to agricultural or open space uses.

(c) Reasonable restrictions upon such lands shall be stated by the Planning Commission at the time of preliminary

development plan approval and said restrictions shall be recorded with the final development plan.

(3) Alteration or removal of the conditions and restrictions on restricted lands may only be enabled through rezoning the property. Because said restrictions are an integral part of the rural PUD approval, said rezoning may only take place after the Planning Commission and the County Board make the following findings.

(a) The land use plan for the area has been changed in a manner which allows for more intensive development.

(b) The character of the area has substantially changed in a manner which invalidates the reasons for original establishment of the rural PUD.

(Ord. 18-4, passed 6-19-2018)

PERFORMANCE STANDARDS

§ 155.075 PURPOSE.

(A) The performance standards established in this subchapter are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The County Board shall be responsible for enforcing the standards.

(B) (1) Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance.

(2) Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

§ 155.076 EXTERIOR STORAGE.

(A) In residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment; construction and landscaping materials and equipment currently (within a period of 36 hours) being used on the premises; agricultural equipment and materials if these are used or intended for use on the premises; off-street parking of licensed and operable passenger automobiles and pick-up trucks. Personal boats and unoccupied trailers, less than 20 feet in length and a licensed recreational vehicle less than 40 feet in length, are permissible if stored in the rear yard more than ten feet from the property line. Existing uses shall comply with this provision within 12 months following enactment of this chapter.

(B) In all districts, the County Board may require a conditional use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, convenience, morals or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes threat to living amenities.

§ 155.077 REFUSE.

(A) In all districts, all waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of this chapter.

(B) Except as provided below or specifically permitted, outdoor storage of inoperative or unlicensed vehicles, boats, recreational vehicles, farm implements and other machinery or vehicle parts shall be considered refuse. One unlicensed or inoperative passenger vehicle or truck may be parked within setbacks in the rear yard of any residential district or any lot ten acres or less in size for a period not to exceed 30 days; **INOPERATIVE** shall mean incapable of movement under their own power and in need of repairs or junk yard. In the Agricultural District, on lots larger than ten acres in size, exterior storage of not more than two unlicensed or inoperable vehicles or machines shall be permitted provided no repair or dismantling business takes place and the storage area is completely screened and not visible from any other property or public road at all times of the year. All exterior storage not included as a permitted accessory use, a permitted use or included as part of a conditional use permit, or otherwise permitted by provisions of this chapter shall be considered as refuse.

§ 155.078 SCREENING AND FENCES.

(A) Screening shall be required in residential zones where:

(1) Any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential zone; and

(2) The driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

(B) Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Zoning Administrator).

(C) All exterior storage shall be screened. The exceptions are:

- (1) Merchandise being displayed for sale;
- (2) Materials and equipment presently being used for construction on the premises; and
- (3) Merchandise located on service station pump islands.

(D) (1) The screening required in this section may consist of a fence, trees, shrubs and berms not less than five feet high, but shall not extend within 15 feet of any street or driveway.

(2) The screening shall be placed along property lines or in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and pavement. The screening shall not block direction vision.

(3) Planting of a type approved by the Planning Commission may also be required in addition to or in lieu of fencing.

(E) Fences which impede visual sight lines in anyway shall not encroach closer to any shoreline than the principal building setback. Electrified or barbed fences shall be prohibited in residential districts. Electrified fences used as an accessory to permitted agricultural uses are allowed. Swimming pools with a capacity exceeding 5,000 gallons shall be surrounded by a fence at least four feet in height with a self-latching gate or a power safety cover complying with ASTM F 1346.

(Ord. passed 12-1-2015)

§ 155.079 LANDSCAPING MAINTENANCE.

In all districts, all structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

§ 155.080 GLARE.

In all districts, 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 zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. 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 street shall not exceed one foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property.

§ 155.081 PARKING.

(A) *Surfacing and drainage.* Off-street parking areas shall be improved with a durable and dustless surface which may include an aggregate material or similar treatment. Such areas shall be so graded and drained as to dispose of all surface water without damage to adjoining property. These requirements shall also apply to open sales lots. The Planning Commission may require the use of asphalt, concrete or other aggregate material as part of a conditional use permit.

(B) *Location.* All accessory off-street parking facilities required herein shall be located as follows:

- (1) Spaces accessory to one- and two-family dwellings on the same lot as the principal use served;
- (2) Spaces accessory to multiple-family dwellings on the same lot as the principle use served or within 200 feet of the main entrance to the principal building served;
- (3) Spaces accessory to uses located in a business, within 800 feet of a main entrance to the principal building served;
- (4) There shall be no off-street parking space within five feet of any street right-of-way; and
- (5) No off-street open parking area containing more than four parking spaces shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.

(C) *General provisions.*

(1) *General.* Access drives may be placed adjacent to property lines; except that, drives consisting of crushed rock or other non-finished surfacing shall be no closer than one foot to any side or rear lot line.

(2) *Parking spaces.* Each parking space shall not be less than nine feet wide and 20 feet in length exclusive of an adequately designed system of access drives.

(3) *Control of off-street parking facilities.* When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the county requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.

(4) *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.

(D) *Design and maintenance of off-street parking areas.*

- (1) *General.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such

driveway access shall not exceed 22 feet in width and shall be so located as to cause the least interference with traffic movement.

(2) *Signs.* No signs shall be located in any parking area, except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.

(3) *Curbing and landscaping.* All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than three feet from the side property line or a guard of normal bumper height not less than one foot from the side property line. When said area is for six spaces or more, a curb or fence not over five feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or fence.

(4) *Parking space for six or more cars.* When a required off-street parking space for six cars or more is located adjacent to a Residential District, a fence of adequate design, not over five feet in height, nor less than four feet in height, shall be erected along the Residential District property line.

(5) *Maintenance of off-street parking space.* It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fences.

(6) *Determination of areas.* A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

(E) *Other parking in residential areas.* Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. Except for short-term parking (six hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile driver's licenses.

(F) *Off-street spaces required.* (One space equals 300 square feet.)

Automobile service station	At least 2 off-street parking spaces, plus 4 off-street parking spaces for each service stall
Bowling alley	At least 5 parking spaces for each alley, plus additional spaces as may be required herein related uses such as restaurant, plus 1 additional space for each employee
Business and professional offices	1 space for each 400 square feet of gross floor space
Churches, theaters, auditoriums and other places of assembly	1 space for each 3 seats or for each 5 feet of pew length; based upon maximum design capacity.
Drive-in food	At least 1 parking space for each 15 establishment square feet of gross floor space in building allocated to drive-in operation
Hospital	At least 1 parking space for each 3 hospital beds, plus 1 space for each 4 employees, other than doctors, plus 1 parking space for each resident and regular staff doctor
Hotel or motel	1 space per rental unit, plus 1 space per employee
Medical and dental clinics	5 spaces per doctor or dentist, plus 1 space for each employee
Multiple dwellings	2 spaces per dwelling unit
One- and two-family residences	2 spaces per dwelling unit
Restaurants, cafés, bars, taverns, nightclubs	At least 1 space for each 3 seats based on capacity designs
Retail store	At least 1 off-street parking space for each 150 square feet of gross floor area
Schools	At least 1 parking space for each 4 students based on design capacity, plus 1 additional space for each classroom
Uses not specifically noted	As determined by the governing body following review by the Planning Commission

(Ord. 18-4, passed 6-19-2018; Ord. 19-6, passed 11-19-2019)

§ 155.082 TRAFFIC CONTROL.

(A) The traffic generated by any use shall be channelized and controlled in a manner that will avoid:

(1) Congestion on the public streets;

- (2) Traffic hazards; and
- (3) Excessive traffic through residential areas, particularly truck traffic.

(B) Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets. On corner lots, (including rural areas) no structures shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.

§ 155.083 TREES AND WOODLAND PRESERVATION.

(A) *General.* The following restrictions shall apply to all residential development occurring in a wooded area.

(1) Structures shall be located in such a manner that the maximum number of trees shall be preserved.

(2) Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site and that if trees are cut, he or she will restore the density of trees to that which existed before development, but in no case shall he be compelled to raise the density above in ten trees per acre.

(3) 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.

(4) Development including grading and contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.

(B) *Shoreland areas.* The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Clear-cutting shall be prohibited in the shore and bluff impact zones.

(C) *Forest management standards.* The harvesting of timber and associated reforestation or conversion of forested use to a non-forested use must be conducted consistent with the following standards:

(1) Timber harvesting and associated reforestation must be conducted consistent with the provisions of the state's Non-Point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management *Best Management Practices in Minnesota*.

(2) When not part of a conditional use permit otherwise required, forest land conversion to another use require issuance of a conditional use permit and adherence to the following standards:

(a) Shore and bluff impact zones must not be intensively cleared of vegetation; and

(b) An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

(3) 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 by proper application or use of earth or vegetation.

§ 155.084 SOIL EROSION AND SEDIMENT CONTROL.

The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling or exposure of soils.

(A) *General standards.*

(1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) 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.

(3) 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.

(4) The drainage system shall be constructed and operational as quickly as possible during construction.

(5) Whenever possible, natural vegetation shall be retained and protected.

(6) If it is necessary to remove top soil from a site being graded or excavated, sufficient top soil shall be hauled back upon completion of the activity to cover the area to a depth of four inches. The top soils hauled in and spread on the disturbed area shall be of a quality at least equal to the top soil removed from the site.

(7) When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 60 days. Said time period shall be extended only if the Planning Department is satisfied that adequate measures have been established and will remain in place.

(8) The natural drainage system shall be used as far as is feasible for the storage and flow of runoff. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control. 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 construction.

(1) No exposed slope should be steeper in grade than five feet horizontal to one foot vertical.

(2) Exposed slopes steeper in grade than ten feet horizontal to one foot vertical should be contour plowed to minimize direct runoff of water.

(3) 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.

(4) 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.

(5) 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.

(6) 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 as effectively protect exposed slopes.

(C) *Design standards.* When constructed facilities are used for storm water management, they must be designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(1) *Waterways.*

(a) The use of the natural above ground drainage system to dispose of runoff should be strongly encouraged. Storm sewers should only be used where it can be demonstrated that the use of the above ground natural drainage system will not adequately dispose of runoff. Above ground runoff disposal waterways may be constructed to augment the natural drainage system. To the extent possible, the natural and constructed waterways should be coordinated with an open space trail system.

(b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-inch storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

(c) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

(d) The banks of the waterway shall be protected with a permanent turf vegetation.

(e) The banks of the waterway shall not exceed five feet horizontal to one foot vertical in gradient.

(f) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.

(g) The bed to the waterway shall be protected with turf, sod or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials; provided, said construction materials are limited to asphalt cement and concrete. The rip rap shall be no smaller than two inches square nor no larger than two feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.

(h) If the flow velocity in the waterway is such that erosion of the turf side-wall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the sidewalls. Either gravel or rip rap would be allowed to prevent erosion at these points.

(2) *Water velocity.*

(a) The flow velocity of runoff in waterways shall be controlled to a velocity that will minimize erosion of the waterway.

(b) Flow velocity should be controlled through the installation of diversions, berms, slope drains and other similarly effective velocity control structures.

(3) *Sediment control.*

(a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

(b) 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 should serve as

temporary sediment control features during the construction stage of a development.

(c) 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.

(d) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(4) *Maintenance of erosion control system.*

(a) The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning according to the provisions of this chapter.

(b) Sediment basins shall be maintained as the need occurs to ensure continuous desilting action.

(c) 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.

(d) Prior to the approval of any plat for development, the developer shall make provision for continued maintenance on the erosion and sediment control system.

(Ord. 18-4, passed 6-19-2018)

§ 155.085 EXPLOSIVES.

No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted, except as are specifically licensed by the County Board.

§ 155.086 GUEST HOUSES.

(A) Guest houses, for purpose of this chapter, shall be an accessory building detached from the principal building where accommodations for sleeping are provided, but no kitchen facility provision is made. The use is for persons visiting the occupants of this principal building. Guest houses shall be permitted in all Residential and Agricultural Districts and shall conform to all setback requirements for the principal building. Guest houses shall be located on lots at least 20,000 square feet in area, and no guest house shall be used as rental property.

(B) Only one guest house shall be permitted per parcel of land; providing that, adequate sanitary facilities can be provided and that no guest house shall exceed 750 square feet in total floor area. The Board of Adjustment shall review requests for guest houses on lots with no principal dwelling.

(Ord. 18-2, passed 6-19-2018)

§ 155.087 DRIVE-IN BUSINESS DEVELOPMENT STANDARDS.

The following standards shall apply to drive-in businesses in all districts.

(A) *Approved drainage system.* The entire area of any drive-in business shall have a drainage system approved by the County Engineer.

(B) *Surfaced to control dust and drainage.* The entire developed area, other than that occupied by structures or planting, shall be surfaced with a hard surface material which will control dust and drainage.

(C) *Fencing and screening.* A fence or screen of acceptable design, not over six feet in height or less than four feet, shall be constructed along the property line abutting a Residential District and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

(D) *General.*

(1) Any drive-in business serving food or beverages shall also provide, in addition to vehicular service areas, in-door food and beverage service seating area sufficient to accommodate at least 24 customers.

(2) The hours of operation shall be set forth as a condition of the conditional use permit for drive-in business.

(3) Each drive-in business serving food may have outside seating.

(4) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

(E) *Locations.*

(1) No drive-in business shall be located within 400 feet of a public or parochial school, church, public recreation area or any residential district.

(2) No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.

(3) No drive-in shall be located on any street other than one designated as a thoroughfare or business service road.

(F) *Site plan.*

(1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers

shall be screened.

(2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

(3) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property at any public street.

(4) The design of any structure shall be compatible with other structures in the surrounding area.

(5) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 400 feet from any residentially zoned or used property, nor within 200 feet of any adjacent lot regardless of use or zoning district.

(6) No service shall be rendered, deliveries made or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

(7) No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.

(8) No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within 50 feet of intersecting street curb lines.

(G) *Fence*. In the case of a drive-in theater, a solid fence not less than eight feet in height and extending at least to within two feet of the ground shall be constructed around the property.

(H) *Lighting*. The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

(Ord. 18-4, passed 6-19-2018)

§ 155.088 NUISANCES.

(A) *Nuisance characteristics (non-agricultural uses)*. No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety, nor will damage public waste transmission or disposal facilities. These regulations shall not apply to normal farm operations.

(B) *Livestock and animals*.

(1) All parcels of property shall comply with the regulations and density requirements for livestock and feedlots as regulated in Ch. 152.

(2) Any building or open feedlot enclosure, not to include pastures, in which livestock are kept shall be a distance of 100 feet or more from any other parcel. These regulations shall not apply to normal farm operations which existed prior to the adoption of this chapter; provided, no expansion shall take place, except in accord with these regulations.

(3) In all districts, the manure from livestock and domestic pets shall be properly treated and disposed with best management practices, and not allowed to accumulate in any manner which may cause public health problems.

(4) The County Board may order the owner of any animals to apply for a conditional use permit if it is deemed to be in the interest of the public health, safety or welfare.

(5) Keeping four or more dogs on any parcel for any reason shall be deemed a kennel. Kennels are permitted by conditional use in the AG and A/R Districts only.

(C) *Miscellaneous nuisances*.

(1) It shall be unlawful for any person to store or keep any vehicle of a type requiring a license to operate on the public highway, but, without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in residential or agricultural districts, except as provided in § 155.077 of this chapter.

(2) It shall be unlawful to create or maintain a junkyard or vehicle dismantling yard, except as provided herein.

(3) It shall be unlawful to create a nuisance affecting the health, peace or safety of any person.

(4) The following are declared to be nuisances affecting public health or safety:

(a) The effluent from any cesspool, septic tank, drainfield or human sewage disposal system, discharging upon the surface of the ground, or dumping the contents thereof at any place, except as authorized;

(b) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(c) Carcasses of animals not buried or destroyed or otherwise disposed;

(d) The placing or throwing on any street, alley, road, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisance which may injure any person or animal or damage any pneumatic tire when passing over the same; and

(e) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten

automatically when closed of sufficient size to retain any person to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

(Ord. 16-2, passed ---; Ord. 16-6, passed 10-18-2016)

§ 155.089 AUTO SERVICE STATIONS.

The following standards shall be applicable to auto and truck service stations in all districts.

(A) (1) A surface water drainage system, subject to approval by the County Engineer, shall be installed.

(2) The developed area site, other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the Planning Commission. Pump islands shall not be placed in the required yards. The area around the pump island, to a distance of eight feet on each side, shall be concrete. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the same street.

(B) No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than 15 days. Existing service stations shall comply with this requirement within 45 days of the effective date of this chapter.

(C) Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of this chapter.

(D) All areas utilized for the storage, disposal or burning of trash, debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of this chapter.

(E) Business activities not listed in the definition of service stations in this chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include, but are not limited to, the following:

- (1) Automatic car and truck wash;
- (2) Rental of vehicles, equipment or trailers; and
- (3) General retail sales.

§ 155.090 SEWAGE AND WASTEWATER TREATMENT AND DISPOSAL STANDARDS.

(A) *Purpose and intent.* The purpose of the sewage and wastewater treatment and disposal standards shall be to provide minimum standards for, and regulation of, subsurface sewage treatment systems (SSTS) and septage disposal including the proper location, design, construction, operation, maintenance and repair to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under M.S. Ch. 115 and 145A, as they may be amended from time to time, and Minn. Rules Ch. 7080 through 7083, as amended, that may pertain to sewage and wastewater treatment.

(B) *General provisions.*

(1) *Standards adopted by reference.* The county hereby adopts, by this reference, Minn. Rules Ch. 7080 and 7081 and M.S. § 115.55, as it may be amended from time to time, along with any future amendments.

(2) *License requirements.* No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site subsurface sewage treatment systems without first obtaining a license to perform such tasks from the state's Pollution Control Agency, except as provided under Minn. Rules part 7083.0700. Only gravity fed Type I systems can be installed by homeowners.

(3) *Permits.* No person shall install, alter, repair or extend any SSTS in the county without first applying for and obtaining a permit from the Environmental Health Office (EHO) and at the same time paying a fee as listed in the fee schedule determined by the County Board of Commissioners. Maintaining the system as originally designed and installed is excluded from the previous requirements. A permit is required for the conversion of a septic tank to a holding tank. As needed, operating permits and any associated fees will be required by EHO staff when necessary for proper system operation. Staff will notify the permittee of an incomplete application, when the requirements are met a permit will be issued. Such permit shall be valid for a period of 18 months from the date of issuance. A full design must be submitted before a permit for a new or replacement system is approved. When weather does not allow a full site evaluation to be completed, a design of the worst case scenario shall be submitted. Verification is required when weather permits.

(4) *Construction inspections.* The permittee shall notify the EHO prior to the completion and covering of the SSTS. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design. Inspections will be made at least once during the construction of the SSTS at such time to assure that the system has been constructed per submitted and approved design.

(a) No part of the system shall be covered until it has been inspected and accepted by the Inspector unless prior arrangements have been made.

(b) Proposals to alter the permitted construction shall be reviewed and the proposed change accepted in writing by both the designer and the EHO.

(c) It shall be the responsibility of the property owner or authorized agent to notify the Inspector on the workday preceding the day inspection is desired.

(d) If proper notice is given and the inspector does not appear for an inspection within two hours after the time is set, the permittee may complete the installation. The permittee shall then file a signed as-built, including photographs of the system prior to covering, with the EHO within five working days. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.

(e) Upon satisfactory completion of the system, the Inspector shall perform a final inspection. If, upon inspection, the Inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this chapter, the Inspector shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

(5) *Warranty, guarantee.* Neither the issuance of a permit nor the inspection of a system shall constitute any warranty or guarantee of operation of the system.

(6) *Permit requests.* When either of the following occur the EHO department will review records of the SSTS on the property to determine adequate conformance. Said review may require conformance to Minn. Rules part 7080.2450, subpart 2, and/or require a certification of compliance of the SSTS:

(a) Any time that a permit is applied for in a shoreland management area (1,000 feet of a lake, pond or flowage or 300 feet of a river or stream or the landward extent of a floodplain); or

(b) With the addition of a bedroom on the property.

(7) *Separation allowances.*

(a) SSTS built after 3-31-1996 or in an SWF area as defined under part Minn. Rules part 7080.1100, subpart 84, shall have three feet vertical separation or a vertical separation based on applicable requirements. Existing systems are allowed up to a 15% reduction from the three-foot required vertical separation distance to account for settling of sand or soil, normal variation of measurement, and interpretations of the limiting layer conditions.

(b) SSTS built before 4-1-1996, in areas that are not SWF areas as defined under Minn. Rules part 7080.1100, subpart 84, must have at least two feet of vertical separation.

(8) *Pumping.* When conducting compliance inspections and/or designing a replacement SSTS that will use the existing septic/lift tank(s), the tanks(s) shall be pumped by a licensed maintainer and certified. Pumping is not mandatory if documentation exists that the tank has been pumped within the past three years, however this alone does not fulfill the tank certification requirement. In all cases, the tank integrity documentation must be completed and is required at the time of applying for a SSTS permit.

(9) *Maintenance holes.* With septic tank pumping, the maintenance hole(s) shall be brought to within one foot of finished grade and properly secured as needed. With the pumping, maintaining or certification of a lift tank, the pump riser must be brought to grade.

(10) *Abandonment.* SSTS must be properly abandoned according to Minn. Rules part 7080.2500.

(a) If the individual abandoning a SSTS is not a licensed SSTS professional, the abandonment must be inspected by a licensed SSTS inspector.

(b) A state abandonment document must be submitted to the local unit of government within 90 days of abandonment.

(11) *Failing SSTSs.* Failing SSTS must be resolved on the following schedule.

(a) A failing SSTS, as described in Minn. Rules part 7080.1500, subpart 4b, shall be upgraded, replaced or its use discontinued within one year of notice. The Environmental Health Office will give consideration to weather conditions as it establishes compliance dates.

(b) An SSTS posing an imminent threat to public health or safety as described in Minn. Rules part 7080.1500, subpart 4a, shall be abated within ten days of notice. The system shall be upgraded, replaced or repaired or its use discontinued, within six months of notice.

(12) *Holding tanks.*

(a) Holding tanks shall not be used as a sanitary system for a new residential dwelling. For conforming lots and structures, a holding tank may be used for expansions, alterations, additions and improvements to existing dwellings so long as it does not exceed 50% of the value of the existing structure as indicated in the records of the County Assessor, or 50% of the footprint, whichever is more restrictive. Holding tanks may also be used for the exact replacement of an existing dwelling.

(b) Holding tanks shall only be used as a corrective action for sewage disposal for pre-existing uses where a full treatment system cannot be installed.

(c) Undeveloped lots of record on which a holding tank is the only practical means of sewage disposal are unsuitable for residential use.

(d) Holding tanks shall not be installed on undeveloped lots of record for recreational uses unless the lot has been found to be suitable for a dwelling and can support a full septic system.

(e) Holding tanks must have an alarm device for the prevention of overflow.

(f) An owner must have a current pumping contract signed by the owner and a licensed maintenance business. Records shall be kept to validate required pumping.

(g) A septic tank that is converted to a holding tank must be pumped and certified.

(13) *Scope.* All sewage generated in unsewered areas of the county shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated and maintained in accordance with the provisions of this chapter or by a system that has been permitted by the MPCA.

(14) *Prohibitive discharge.* It is unlawful for any person to construct, maintain or use any SSTS 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 Pollution Discharge Elimination System program by the MPCA.

(15) *Dispute.* If a documented discrepancy arises on the depth of the periodically saturated soil, all parties involved with the discrepancy including the local unit of government, shall be contacted and the procedures set forth in Minn. Rules part 7082.0700, subpart 5, shall be followed.

(16) *Floodplain.* SSTS shall not be located in a floodway and whenever possible, location in 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 Minn. Rules part 7080.2270 and all relevant local floodplain requirements are met.

(17) *Class V injection wells.* All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in 40 C.F.R. part 144, are required by the Federal Government to submit SSTS information to the Environmental Protection Agency as described in 40 C.F.R. part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

(18) *Newly created lots.* All lots created after 1-23-1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds and at-grade systems as described in Minn. Rules parts 7080.2200 through 7080.2230 and 7080.2260 or site conditions described in Minn. Rules part 7081.0270, subparts 3 through 7. For the creation and division of new lots, verification by soil borings located on a plan must be submitted establishing that this requirement can be met.

(19) *Management plans.* Management plans are required for all new or replacement SSTS. The management plan shall be submitted by the designer to the local unit of government before issuance of a SSTS permit. Management plans shall include requirements as listed in Minn. Rules part 7082.0600, subpart 1(B), and other requirements as determined by the permitting authority.

(20) *Operating permits.*

(a) SSTS specified in Minn. Rules parts 7080.2290, 7080.2350 and 7080.2400 and Minn. Rules Ch. 7081 require an operating permit and shall include Minn. Rules part 7082.0600, subpart 2, and other requirements as determined by the permitting authority.

(b) The operating permit for new SSTS and MSTs will be issued in tandem with the construction permit for the new system. Operating permits, when needed for existing systems and or system repair, will be issued as separate permits.

(c) Any additional fees for operating permits will be listed in the fee schedule determined by the County Board of Commissioners.

(21) *Treatment tanks.* SSTS not operated under a management plan or operating permit must have treatment tanks inspected every three years. Solids must be removed when their accumulations exceed the limits as described in Minn. Rules part 7080.2450.

(22) *Sale or transfer.* No owner of a tract of land on which a dwelling is located, or tract of land on which a structure which is required to have an SSTS is located, shall sell or transfer to another party said tract of land unless requirements as stated in Ch. 157 of this code of ordinances are met.

(23) *Septage management.* Septage shall be pumped, managed, land applied and disposed of in accordance with applicable state and federal laws.

(C) *Site evaluation and design requirements.*

(1) *Minimum of three soil observations required.* When designing systems a minimum of three soil observations are required for each site, unless sites are adjacent. For adjacent sites a minimum of three soil observations are required with a minimum of two observations in the primary site and one observation in the secondary site.

(2) *Benchmarks, borings, percolation sites and dispersal area; must be staked and labeled.* Benchmarks, borings, percolation sites and dispersal area must be staked and labeled in the field. The elevations of the above items must be on the design.

(3) *Septic tank.* A minimum 1,500-gallon split tank is required. Split tank capacity can be achieved with multiple tanks. For a new dwelling, burial of the top of tank greater than four feet only allowed with LUG approval and statement from tank manufacturer as to maximum designed depth for tank.

(4) *Pump tank.*

(a) At minimum, a 1,000-gallon pump tank is needed for lifting the effluent to the soil treatment area.

Table 1: Drainfield Sizing Treatment Level C Minimum Treatment Area*

SLR						
		Sand Loamy Sand 1.20 gpd/ft²	Sandy loam 0.78 gpd/ft²	Loam Fine sand 0.60 gpd.ft²	Silt Silt Loam 0.50 gpd/ft²	Clay Loams 0.45 gpd/ft²
BEDROOMS	2	600	600	600	600	667
	3	700	800	800	900	1,000

	4	800	900	1,000	1,200	1,333
	5	900	1,000	1,250	1,500	1,667

Table 2: Drainfield Sizing Treatment Level A/B Minimum Treatment Area*

SLR						
BEDROOMS		Sand Loamy Sand 1.60 gpd/ft ²	Sandy loam 1.0 gpd/ft ²	Loam Fine sand 0.78 gpd.ft ²	Silt Silt Loam 0.78 gpd/ft ²	Clay Loams 0.6 gpd/ft ²
	2	450	450	450	450	500
	3	500	500	577	577	750
	4	550	600	769	769	1,000
	5	600	750	962	962	1,250

(b) *There are structure and consistence qualifiers per code 7080.2150 that may require design modifications before being able to properly apply these tables.

(5) *Soil texture; to be logged and accounted.* When conducting percolation tests, soil texture shall be logged and accounted for. If there is a discrepancy between the soil texture and the percolation rate, the smaller soil loading rate needs to be used.

(6) *Trenches with 12 inches of rock; sizing.* Trenches designed with 12 inches of rock or more under the distribution pipe shall be sized according to Table 1 or Table 2 above.

(7) *Mound systems.* Mound systems are to be sized at 1.0 gpd/sq. ft.

(8) *Type III, IV, V, non-residential SSTS.* Type III, IV, V and non-residential SSTS shall be time dosed.

(9) *Bedroom additions; existing compliant SSTS.* Bedroom additions with an existing compliant SSTS where the treatment area cannot be practically increased to the proper treatment area size, shall be time dosed.

(10) *Gravity trenches in sandy soil.* When installing gravity trenches in sandy soil per Minn. Rules part 7080.2210, subpart 4, § F, item 2, the maximum single trench area shall be determined as 15% of the state required treatment area.

(11) *Remediation.* A permit shall be required when an operational component is added, or a method employed to an SSTS to recover a failing treatment area. Required information for this permit will be a description of what is wrong with the existing SSTS, an inspection/compliance of the components of the system, a lab sample of the existing effluent to determine abnormalities, and a preliminary site evaluation of what the upgrade options will be on the property if remediation fails to correct the problem. A management plan/operating permit will also be required.

Table 3: Minimum Setback Distances (Feet)

	Sewage or Holding Tank	Soil Treatment or Absorption Area	Building Sewer or Supply Pipes
Table 3: Minimum Setback Distances (Feet)			
	Sewage or Holding Tank	Soil Treatment or Absorption Area	Building Sewer or Supply Pipes
All public water wetlands as defined by M.S. § 103G.005, subd. 15a, as it may be amended from time to time, or successor statute	50	50	-
Buildings***	10	20	-
Buried pipe distributing water under pressure*	10	10	10

Buried water suction pipe*	50	50	50**
Ordinary high water mark of the following types of lakes and rivers:			
General development lakes	50	50	-
Recreational development lakes	75	75	-
Natural environmental lakes	150	150	-
Mississippi River, agricultural rivers and tributaries as defined in § 155.057(D) of this chapter	75	75	-
Transitional river segments (north fork of the Crow)	150	150	-
Property lines****	10	10	-
Subsurface drainage systems such as field tile lines	50	50	-
Surface drainage systems such as open ditches	30	30	-
Water supply wells* (50 feet of continuous casing or encountering 10 feet of impervious material)	50	50	50**
Water supply wells* (less than 50 feet of continuous casing)	50	100	50**
NOTES TO TABLE:			
* Setbacks from buried water pipes and water supply well as governed by Minn. Rules Ch. 4715 and 4725, respectively.			
** The setback can be reduced from 50 to 20 feet if the building sewer or supply pipe is air tested by holding 5 pounds of air pressure for 15 minutes.			
*** For structures other than buildings these setbacks may be reduced if necessary due to site conditions, but in no case shall any part of the individual sewage treatment system be located under or within the structure. For this provision to be employed there shall not be interior space below the structure. For the new construction of a structure without interior space below the structure no part of the absorption area shall encroach closer than 10 feet.			
**** The setback from the treatment area to the platted road may be reduced with written approval from the road authority. The Board of Adjustment shall review variance requests, including those from common property lines, per § 155.026 in this chapter.			

(D) *Setbacks and placement of building sewer.*

(1) The building sewer pipe extending from the house to the tank shall not be less than four inches in diameter and must meet the strength requirements of Schedule 40 plastic pipe. The pipe shall be supported in such manner so that there is no deflection during backfilling and subsequent settling of the soil between the building foundation and the inlet to the septic tank. Construction of the line shall provide a grade of not less than one-eighth inch per foot for minimum grades. No 90-degree ells shall be permitted.

(2) The sewer pipe extending from the tank to the distribution medium must meet the strength requirements of Schedule 40 plastic pipe. Sewer pipe lines, manholes and other appurtenances shall be constructed in accordance with the state's Plumbing Code and the state's Pollution Control Agency requirements.

(E) *Subject to change.* The requirements of this chapter are intended to be comparable to the Environmental Protection Agency and the state's Pollution Control Agency standards. Should this chapter differ from other agency standards or should EPA or MPCA standards change, the more strict standards shall apply.

(Ord. 16-2, passed ---; Ord. 18-4, passed 6-19-2018)

§ 155.091 DWELLING UNITS PROHIBITED.

(A) No garage, tent, trailer, motor home, accessory building, nor any vehicle or building not specifically approved by the Building Inspector, may be used at any time as a dwelling. The basement portion of finished home or apartment may be used for normal eating and sleeping purposes; provided, it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

(B) One travel trailer or motor home (not to include mobile homes nor park trailers) is permitted for seasonal use on any lot, provided that the following conditions are met.

(1) Only one such unit is allowed per lot.

(2) Sewage must be properly treated or hauled away. On lots which have been declared by the Board of Adjustment to be unacceptable as a building site, the unit shall have a self-contained holding tank and sewage shall be hauled away for treatment and disposal.

(3) The travel trailer is for guests or recreational use only. It may not be occupied on any lot for more than 90 days in any one year.

(4) The unit must have a current license attached in accord with state law.

(5) Placement of the unit shall comply with all setback requirements for a principal structure.

(Ord. 18-4, passed 6-19-2018)

§ 155.092 RELOCATION OF STRUCTURES.

(A) A conditional use permit shall be required for all permanent relocation of residence and for the relocation of any building requiring a permit in residential areas. Relocated sheds, farm buildings, cribs and other farm structures onto farms do not require a conditional use permit.

(B) Relocation of construction sheds to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure to be moved and proposed site plan of the lot on which the structure is to be located. The Planning Commission shall also require a map indicating location of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots. If the Planning Commission decides that relocation of the structure would depreciate the value of structures or lots surrounding the lot upon which it is to be moved, then the permit shall be denied. The relocation of railroad cars and cabooses onto lots shall be prohibited in all districts.

(C) A conditional use permit shall be required to locate a mobile home on any property for use as a storage shed or other non-residential use.

§ 155.093 VACATED STREETS.

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding. If a street is vacated, within a zoning district, the provision of that district shall apply to the new parcels.

§ 155.094 PERMITTED ENCROACHMENTS.

(A) The following shall be considered as permitted encroachments on setback and height requirements, except as herein provided:

(1) *In any yard.* Posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features and fences, and all other similar devices incidental and appurtenant to the principal structure, except as restricted elsewhere herein;

(2) *In side and rear yards.* Bays not to exceed a depth of three feet or contain an area of more than 30 square feet, fire escape not to exceed a width of three feet. Breezeways, detached outdoor picnic shelters, open arbors and trellises may extend to within five feet of a side or rear lot line; except that, no structure shall exceed 500 square feet. Covered porches may extend 20 feet into the rear yard, but not closer than ten feet from the rear lot line, and must meet shoreland standards; and

(3) *Height limitations.* Height limitations shall not apply to barns, silos and other non-residential farm structures; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles, public utility facilities; transmission towers of commercial and private radio broadcasting station; television antenna, private ham radio towers and parapet walls extending not more than four feet above the limiting height of the building, except as provided in municipal airport zoning provisions.

(B) In no event shall off-street parking space, structures of any type, buildings or other features cover more than 50% of the lot area resulting in less than 50% landscaped area in Residential Districts.

§ 155.095 ACCESS DRIVES AND ACCESS.

(A) Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than three feet to any single- or two-family residence, no closer than five feet to any multiple-family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(B) Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. Access drives onto township roads shall be approved by the appropriate township board.

(C) Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Building Inspector shall review all access drives (driveways) for compliance with the accepted community access drive standards.

(D) All driveways shall have a minimum width of ten feet with a pavement strength capable of supporting emergency and fire vehicles.

(E) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the County Planning

Commission, the County Board or township board.

(F) (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

(2) Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district or other applicable technical materials.

(G) Roads, driveways and parking areas must meet shoreland 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.

(H) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones; provided, the vegetative screening and erosion control conditions of this subchapter are met. For private facilities, the grading and filling provisions of § 155.101 of this chapter must be met.

§ 155.096 IRRIGATION SYSTEMS.

All proposed irrigation systems shall require a permit from the Department of Natural Resources (DNR).

§ 155.097 SIGN REGULATIONS.

(A) *Purpose.* It is hereby found and declared that in the interest of and to promote the general welfare of the people and to conserve the natural beauty of the unincorporated rural areas of the county that it is necessary to reasonably and effectively regulate and control the erection or maintenance of signs. The objectives of this section include preserving the right of free speech and expression, providing easy and pleasant communication between people and their surroundings, and avoiding excessive levels of visual clutter and distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities, or community appearance.

(B) *Signs conform with this chapter.* All signs hereafter erected or maintained shall conform with the provisions of this chapter.

(C) *General provisions.*

(1) *Sign types.*

(a) *Canopy.* A protective roof like covering, made of canvas or similar fabric, mounted on a frame over a walkway, door or window of a building.

(b) *Wall.* A painted or non-painted sign affixed on the side of a building.

(c) *Monument.* A ground sign having a solid appearance and a generally low profile. Must be attached to a proportionate enclosed base (50% minimum). The sign may be constructed with stone, concrete, metal, routed wood planks or beams, or similar materials which harmonize with the establishment it serves. The sign base area shall not exceed the actual sign face area by 10%.

(d) *Pole/pylon.* A freestanding sign that is suspended by no more than three metal, wood or concrete poles.

(e) *Window.* A painted or freestanding sign placed in or on a window of a business.

(f) *Billboard.* Any sign that exceeds 96 square feet in surface area.

(2) *Permit required.* All signs, unless otherwise noted, shall require a permit.

(3) *Sign illumination.*

(a) The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect in or into residential structures. Where a sign is illuminated, the source of light shall not shine upon any part of a single residential district.

(b) No signs shall have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, or which are so constructed and operated as to create an appearance or illusion of writing or printing. No signs should have flashing or rotating signs resembling emergency vehicles.

(4) *Message substitution.* Subject to the land owner's consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message, or for any duly permitted or allowed noncommercial message; provided, that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any more specific provision to the contrary within this chapter. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message

over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.

(5) *Severability.* The invalidation of any section, subsection, clause, word, or phrase of this chapter, or of any definition in

this chapter of any word or phrase used in this chapter, by any court of competent jurisdiction shall not affect the validity of the remaining portions of this chapter.

(D) *Signs in the S-2 Residential-Recreational Shorelands District, S-3 Commercial Recreation Shorelands, W/S Wild and Scenic, A/R Agricultural-Residential, AG General Agriculture District and R-1, R-2, R-2a and R-3 Residential Districts.* In S-2, S-3, W/R, A/R, AG and R-1, R-2, R-2a and R-3 Districts, no sign shall be erected, except as follows:

(1) One sign, not to exceed 35 square feet in surface area and not more than 15 feet in height above the average grade shall be allowed on a parcel with an active agricultural, horticultural, forestry or nursery operation, or seasonal produce stand, or has a valid conditional use permit. No property will be permitted more than one sign under this provision. It may be illuminated, but not flashing; and

(2) One canopy, window, or wall sign, which shall not exceed 35 square feet in surface area or the height of the building, for a parcel with an active agricultural, horticultural, forestry or nursery operation, or seasonal produce stand, or has a valid conditional use permit. This can be in addition to the sign allowed under division (D)(1), above.

(3) Signs, located on the premises, for allowed conditional uses, subject to the following provisions:

(a) No sign shall be erected within 30 feet of the road right-of-way; and

(b) No sign shall be erected within ten feet of any abutting property line.

(E) *Signs in B-1 Highway Service, B-2 General Business and I-1 Limited Industry Districts.* In B-1, B-2 and I-1 Districts, no sign shall be erected, except as follows:

(1) Signs, located on premises, shall comply with the following provisions:

(a) No more than one pole/pylon or monument sign located on the premises. The surface area cannot exceed 96 square feet. Signs permitted under this section are limited to a height not to exceed the permitted building height of the tallest structure on the property. It may be illuminated, but not flashing.

(b) In addition to division (E)(1)(a), above, each parcel of property is allowed:

1. One canopy, window, or wall sign which shall not exceed 10% of the surface area of the front facade.

2. For a property that includes a drive-through window, two additional signs, one no larger than ten square feet in surface area and 48 inches in height and located at least ten feet from a property line and at least six feet from a curb cut, and the second no larger than 30 square feet in surface area and facing the drive-through lane.

3. For a property (other than one including a drive-through window) that includes one or more lanes limited to one-way traffic, one additional sign, no larger than ten square feet in surface area and 48 inches in height and located at least ten feet from a property line and at least six feet from a curb cut.

(2) Parcels of property abutting US Highway 12, State Highway 55, and Interstate Highway 94 shall be permitted to construct one pole/pylon sign or monument sign that is in excess of the permitted building height, provided the sign is not in excess of 50 feet in height above the average grade. Signs permitted under this section shall not exceed 96 square feet in surface area for each conditional use and shall not exceed 300 square feet in total surface area for all signs.

(3) All signs shall meet the following restrictions and setbacks:

(a) No sign shall be erected within ten feet of any abutting property line.

(b) No sign shall be erected within 30 feet of the road right of way.

(F) *Signs in other zoning districts.* All signs shall be prohibited in any zoning district which is not specifically listed in divisions (D), (E), and (G) except for signs which are classified as exempt under division (H).

(G) *Billboards.*

(1) Billboards are only permitted to be placed on property directly abutting U.S. Highway 12, State Highway 55, and Interstate Highway 94 in the B-1, B-2 and I-1 Districts.

(2) Billboards shall not exceed a maximum total surface area of 672 square feet per side, including any extensions, with a maximum of two sides. Billboards may not be stacked vertically.

(3) The height of the top edge of a billboard cannot exceed 40 feet above existing grade of the sign site with a minimum ground clearance of ten feet.

(4) No billboard shall be erected within 100 feet of any abutting property line in a district where billboards are prohibited. Otherwise, billboards shall meet the same side and rear setback as any other building or structure in that district.

(5) No billboard shall be permitted within ten feet of the right-of-way of any street or road.

(6) No billboard shall be located within a radius of 660 feet of any existing billboard.

(7) No billboard shall be located within 300 feet of a dwelling, at grade intersection of two or more roads, or at grade intersection of any road and a railroad.

(8) Billboards shall be a freestanding signboard located on or off premise.

(H) *Exempt signs.* Unless prohibited in division (I), the following signs shall be authorized in all zoning districts and shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this chapter or any other law or ordinance regulating the same.

- (1) Any sign owned or maintained by a governmental entity.
- (2) The changing of the display surface on a previously approved painted or printed sign.
- (3) One sign six square feet or less in size and no more than five feet in height per property.

(4) Non-commercial signs beginning 46 days before the state primary in a state general election year until ten days following the state general election.

(5) When the date of a local, municipal, county, township, or school election does not correspond with the state primary or state general election, non-commercial signs may be erected, within the jurisdiction conducting the election, and maintained beginning 46 days before any scheduled primary or general election until ten days following the general election.

(6) Each newly platted subdivision or development shall be allowed one sign at each entrance of the subdivision or plat. Each sign shall not exceed 96 square feet in surface area and no more than 15 feet in height. Each sign shall be allowed for one year after the recording of the plat, or for 30 days after the last property or parcel in the plat is sold or transferred, whichever is later.

(7) Every parcel of property is entitled to additional signs totaling but not exceeding 12 square feet in surface area and no more than five feet in height while the parcel of property is actively being marketed for sale or rent.

(8) Every parcel of property shall be entitled to one sign no more than 120 square inches in surface area to be placed in all of the following locations:

- (a) On the front of a residence;
- (b) On each side of an authorized United States Postal Service mailbox;
- (c) On one post which measures no more than 48 inches in height and four inches in width.

(9) Every parcel of property is entitled to additional signs totaling, but not exceeding, 24 square feet in surface area and no more than 15 feet in height when there is an event at the subject property and not posted for more than 28 days.

(10) Every parcel of property is entitled to additional, unilluminated signs, to be used during the construction of a building, and which in total are not to exceed 12 square feet each in surface area and are no more than 15 feet in height. Said signs shall be removed within six months from the start of construction.

(11) In the interest of safe traffic flow, every parcel of property is entitled to additional signs totaling, but not exceeding, 24 square feet in surface area and no more than 15 feet in height.

(I) *Signs prohibited.*

(1) Flashing or rotating signs resembling emergency vehicles, official traffic control devices not owned by a public body, or railroad signs or signals not owned by a railroad or a public body, shall not be permitted in any district.

(2) Dynamic signs shall not be permitted in any district.

(3) No sign shall be permitted to obstruct any door, fire escape, stairway or other opening intended to provide light, air, ingress or egress of any building or structure.

(4) No sign shall be placed that resembles any official marker erected by a governmental agency.

(5) Signs shall not be permitted within public right-of-way or easements except for signs allowed under division (H)(1) and division (H)(8)(b).

(6) Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located. If the owner or lessee fails to remove the sign, the Zoning Administrator shall remove it in accordance with division (K)(3) below. These removal provisions shall not apply where a succeeding owner or lessee has a valid conditional use permit and agrees to maintain the signs as provided in this chapter or changes copy on the signs in accord with a valid conditional use permit and provided the signs comply with the other provisions of this chapter.

(7) Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety must be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located.

(8) Unless otherwise noted, no sign shall be placed on public street/traffic signs, utility poles or public property. Signs in violation of this division may be removed by county personnel at their discretion, without advance notice to the sign owner.

(9) Any other structure, banner, balloon, trailer, building, portable device or anything visible from a public road which is used as a sign is prohibited unless specifically authorized by this chapter.

(J) *Permits and fees.*

(1) The property owner or other persons having control of signs subject to the requirements of this chapter shall be

responsible to see that the regulations contained herein are followed.

(2) The erection of any new sign outlined in this chapter, unless otherwise noted, shall require a permit. The fee for sign permits shall be established by resolution of the County Board.

(3) It shall be the duty of the Zoning Administrator and/or the Building Official upon filing of an application for a sign permit, to examine such plans and specifications and other data; and if it appears that the proposed structure is in compliance with all requirements of this chapter and all other laws and ordinances of the county, then the Zoning Administrator shall grant the sign permit. In addition, all illuminated signs shall be subject to the provisions of the state's Electrical Code and shall comply with the Underwriter's standard as defined in the current Underwriter Laboratories standard for safety, electric sign.

(4) Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining a permit, the fee as provided by the County Board shall be doubled. Payment of such double fee shall neither relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed herein.

(5) If the work authorized under a sign permit has not been completed within six months after the date of issuance, said permit shall expire automatically and renewal of the permit shall be required.

(K) *Inspection, removal, safety.*

(1) *Inspection.* Any sign for which a permit is required may be inspected periodically by the Zoning Administrator for compliance with this chapter and all other applicable laws.

(2) *Maintenance.*

(a) The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the property on which a sign is located.

(b) Painting, repainting, cleaning and normal maintenance and repair of a sign or sign structure is required to protect the sign and prevent its deterioration and maintain its neat appearance. Such maintenance is allowed without permit unless a structural change is made. All signs must be maintained in a neat and orderly condition.

(3) *Removal of signs.* The Zoning Administrator shall order the removal of any sign erected or maintained in violation of this chapter. Ten days' notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance with this chapter. Upon failure to remove the sign or to comply with this notice, the Zoning Administrator may remove the sign. The Zoning Administrator may remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any costs of removal incurred by the Zoning Administrator shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary department or in the manner of taxes and all costs shall be assessed against the property. Signs located within the right-of-way of county roads may be removed by the county at any time without notice.

(L) *Prior lawful non-conforming signs.*

(1) Lawful signs existing on the effective date of this chapter which do not conform to the regulations set forth in this chapter shall become a non-conforming use.

(2) Business signs that were lawfully established when erected on the premises of a non-conforming building or use may be continued so long as they continue to comply with the version of this chapter in effect at the time the signs were established, but such signs shall not be increased in number, area, height, volume, or illumination. Such signs may be illuminated, but no flashing, rotating, or moving signs shall be permitted.

(3) No business sign erected before the passage of this chapter shall be rebuilt, altered, or moved to a new location without being brought into compliance with the requirements of this chapter.

(4) In the event that the use of a non-conforming business sign structure is discontinued or its normal operation stopped for a period of six months, any subsequent use of the sign shall be a conforming use.

(5) Legal nonconforming signs on residential and seasonal residential real estate shall be allowed to continue as provided under M.S. §394.36, Subd. 4, as it may be amended from time to time.

(Ord. passed 12-1-2015; Ord. 16-2, passed ---; Ord. 18-4, passed 6-19-2018)

§ 155.098 ESSENTIAL SERVICES.

(A) Essential services, as defined by this chapter, may have an effect upon urbanizing areas of the county, county land uses, highway location, the preservation of natural environmental areas, lakes, streams, rivers, and park and recreation areas.

(B) Essential services are a conditional use unless otherwise stated in this section.

(C) *Filing and setback requirements.*

(1) All essential services including large facilities and those for local distribution or other similar appurtenances or facilities shall be located entirely within a public road right-of-way or shall meet the road right-of-way setbacks as required for principal structures in all zoning districts.

(2) The proposed location of all essential and transmission services in any land use district shall be filed with the county Highway Department prior to commencement of any condemnation action or construction. The proposed location of all essential and transmission services along a township road right-of-way shall also be filed with the Township Clerk prior to commencement of any condemnation action or construction.

(D) *Exemptions.*

(1) Essential services located within a public road right-of-way, platted utility easement, or within a pre-existing utility easement recorded prior to January 1, 2017, for their entire length shall be considered a permitted use in all districts and are exempt from the conditional use permit requirements of this chapter, provided all necessary permits are obtained from the road authority and all state and federal requirements are met. "As-built" plans for such essential services which specify the location of the essential service must be filed with the county Highway Department, and the Township Clerk when the essential services are located in a township road right-of-way, in a format specified by the county Highway Engineer within 90 days of final completion.

(2) County and township structures and support facilities are exempt from requiring conditional use permits.

(3) Essential services, as referred to in this section, do not include the lateral lines, cables, wires, pipes, or sewers which extend from the trunk transmission, collection, or distribution lines, mains, or pipes to service a single residence or other lawfully permitted structure.

(E) *Application procedures.* The following application procedure shall be observed.

(1) The applicant shall file with the Zoning Administrator such maps indicating the location, alignment and type of service proposed as shall be necessary to determine the potential impacts of the essential services.

(2) The essential service permit then shall be treated as a conditional use permit and the applicant shall be responsible to comply with all terms of this chapter applicable to such permits.

(F) *Time limit.* Conditional use permits shall expire in two years unless all conditions in an essential service utility permit are commenced within the two years and completed within one more year unless otherwise specified by the Planning Commission.

(G) *Pipeline safety.* Where any construction or development is proposed adjacent to a pipeline as defined in M.S. § 299J.05, as it may be amended from time to time, said project shall comply with all provisions for pipeline safety and setback standards as specified in M.S. § 299J.05, as it may be amended from time to time.

(Ord. 16-8, passed 12-27-2016)

§ 155.099 MOBILE HOME PARKS.

(A) *Intent.* The intent and purpose of this section is to assure quality development equal to that found in other types of residential areas throughout the community. Excellence of design, development and maintenance is the desired objective.

(B) *Permit required.* No person shall attempt to develop or operate a mobile home park within the community without first obtaining a permit therefor. The requirements of a permit shall prevail over all other standards and requirements notwithstanding the more restrictive sections of this chapter. A permit for a mobile home park may contain other requirements beyond those mentioned in this section.

(C) *Application.* The applicant for a permit, in addition to other requirements, shall include the name and address of the developer and a general description of the construction schedule and construction cost. The application for a permit shall be accompanied by 12 copies of plans which indicate the following:

- (1) Location and size of the mobile home park;
- (2) Location, size and character of all mobile home lots, mobile home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites and all setback dimensions;
- (3) Detailed landscaping plans and specifications;
- (4) Location and width of sidewalks;
- (5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service;
- (6) Plans for an overhead street lighting system shall be submitted for approval by the County Engineer;
- (7) The method of disposing of garbage and refuse;
- (8) Location and size of all streets abutting the mobile home park and all driveways from such streets to the park;
- (9) Plans and specifications for all road construction either within the park or directly related to park operation;
- (10) Floor plans of all service buildings to be constructed within the mobile home park;
- (11) Such other information as may be required or requested by the community; and
- (12) Detailed description of maintenance procedures and grounds supervision.

(D) *Performance standards for mobile home parks.*

(1) A mobile home park shall contain at least 150 fully developed lots. A minimum of 50 mobile home stands must be fully developed, together with all required auxiliary buildings and areas, before any mobile home may be occupied.

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

(3) All mobile home parks shall have one or more recreational areas which shall be easily accessible to all park residents. Recreational areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located. The size of such recreational area shall be

based upon a minimum of 15% of the land area (exclusive of streets), but no outdoor recreational area shall contain less than 2,000 square feet. All equipment installed in such an area shall be owned and maintained by the owner or operator at his or her own expense.

(4) Each mobile home park shall maintain a paved off-street overload parking lot for guests of occupants in the amount of one space for each three coach sites and located within 300 feet of the unit to be served.

(5) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the County Engineer, 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 the Zoning Administrator prior to connection and electrical service shall be at least 120-volt, 100-ampere capacity. Plan for the disposal of surface storm water shall be approved by the County Engineer.

(6) A properly landscaped area shall be adequately maintained around each mobile home park. All mobile home parks shall be screened with a fence along the property boundary lines separating the park from residential and non-residential uses to protect adjoining property owners.

(7) No mobile home, off-street parking space or building shall be located within 30 feet of the exterior boundary of any mobile home park. No mobile home shall be located within 125 feet of the existing or planned centerline of a public street.

(8) Signs shall be limited to one nameplate or identification sign not to exceed 25 square feet, with lighting, height and location as approved by the Zoning Administrator and have a 15-foot setback from the front line.

(9) The area beneath all mobile homes shall be enclosed with a material that shall be generally uniform through the entire mobile home park; except that, such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related mobile home equipment.

(10) Each mobile home lot shall be served by a central fuel supply system such as natural gas or a central LP system. No separate private fuel containers, such as fuel oil tanks or LP tanks shall be allowed in the mobile home park.

(11) All mobile home parks shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers and all other equipment not generally stored within the mobile home or within the utility enclosure, that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment shall not be stored upon a mobile home lot which is occupied by a mobile home nor upon the streets within the mobile home park.

(12) Each mobile home lot within a mobile home park shall abut on and have access to a private road used by the inhabitants of the park and built and maintained by the owner thereof. This road shall lead to and furnish ingress and egress from a public street through controlled driveways which shall have a right-of-way at least 60 feet in width. The private roads and the access roads to public streets shall be paved with a concrete or bituminous material complying with the specifications for the construction of any community street. The paved surface shall be at least 36 feet in width from curb to curb. A concrete curb and gutter shall comply with all applicable community ordinances. There shall also be a paved three-foot wide walkway from the slab to the frontage curb. Access drives off roads to all parking spaces and mobile home slab sites shall be paved.

(13) Each mobile home park shall have one or more central community buildings with central heating which must be maintained in a safe, clean and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, public telephones and public mail boxes, in addition to public toilets and lavatory. For each 100 mobile home lots or fractional part thereof, there shall be one flush toilet and one lavatory for each sex.

(14) Every structure in the mobile home park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every such structure shall be kept in good repair and shall be repainted or refinished when so directed by the community's Building Inspector. All of said structures must be constructed to meet existing community codes. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

(15) All structures shall require a building permit. It is not the intent of this section to repeal or abrogate any part of the Building Code. The provisions of the section shall be enforced in addition to and in conjunction with the provisions of the Building Code.

(E) *Mobile home park lots.*

(1) Each mobile home site shall contain at least 6,000 square feet of land area for the exclusive use of the occupant and shall be at least 60 feet wide, which size site allows for a maximum length mobile home of 55 feet. Larger mobile homes will require longer lots to comply with the following requirements of this chapter.

(2) Mobile homes shall be placed upon mobile home lots so that there shall be at least a 20-foot clearance between mobile home and 20 feet between the front of the mobile home and the front lot line and 25 feet between the rear of the mobile home and the rear lot line. Mobile homes shall be parked no closer than ten feet to a side lot line.

(3) The area occupied by a mobile home shall not exceed 50% of the total area of a mobile home site; land may be occupied by a mobile home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard or any structure.

(4) The yards shall be landscaped except for the necessary driveway and sidewalk needs which shall not exceed one-half the width of the site. Landscaping shall include at least one tree, hedges, grass, fences, windbreaks and the like. Temporary storage shall not be allowed in the lawn area.

(5) Each mobile home lot shall have paved off-street parking space for at least two automobiles. Each space shall be ten feet by 20 feet minimum or as approved by the Zoning Administrator.

(6) The corners of each mobile home lot shall be clearly marked and each site shall be numbered.

(7) Each mobile home lot shall be so designed that automobiles may not be parked within five feet of the side of any mobile home or within five feet of the front or back of the mobile home.

(F) *Mobile home stands.* The area of the mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

(1) The mobile home stands shall not heave, shift or settle unevenly under the weight of the mobile home, due to frost action, inadequate drainage, vibration or other forces acting upon the structure.

(2) The mobile home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the mobile home.

(3) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds or as approved by the current Minnesota State Uniform Mobile

Home Standards Code, whichever is more restrictive.

(4) All land areas shall be adequately drained and properly maintained free of dust, refuse, garbage, rubbish or debris. The proposed method of garbage, waste and trash disposal must be approved by the community and must conform to the regulations of the state's Pollution Control Agency. Refuse collection stands shall be provided for all refuse containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(5) No mobile homes shall be located in the mobile home park that do not conform to the requirements of the most current Minnesota State Uniform Mobile Home Standards Code and has the state seal of compliance affixed to it. No mobile home shall be allowed therein which is in an unsanitary condition, or which has an exterior in bad repair, or which is structurally unsound, or which fails to protect the inhabitants of said mobile home against all the elements.

(6) No person shall erect, place, construct, reconstruct, relocate, alter, maintain, use or occupy a structure in a mobile home park without the written consent of the owner or operator of said park.

(7) Dogs and animals shall not be permitted to run at large within the mobile home park.

(8) No public address or loud speaker system shall be permitted.

(9) No tents shall be erected, or occupied, and there shall be no outdoor camping anywhere in the trailer park.

(10) Laundry and clothes shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose.

(11) No person shall bring or keep an automobile into the mobile home park that does not have a current license and is not in operable condition.

(12) Land in the mobile home park shall be used for residential purposes only.

(13) Each mobile home shall be equipped with an approved fire extinguisher.

(14) No open fires shall be permitted within the park and no fires in burners or incinerators shall be left unattended at any time. The operator shall provide safe, adequate incinerator service in full compliance with any state laws or local ordinances pertaining thereto.

(Ord. 18-4, passed 6-19-2018)

§ 155.100 MINING AND EXTRACTION.

(A) *Purpose.* Modern lifestyles create a continuing demand for the various subsurface resources used throughout the country. These resources are unevenly and sometimes sparsely distributed, thus creating a continual shortage of some materials. Unfortunately, excavation of these resources may not only present conflicts with adjacent land uses, but have often, in the past, left unsightly scars upon the landscape. This provision is designed to minimize the conflicts and eliminate the scars as far as is feasible.

(B) *Administration; permit review.*

(1) A permit shall be required for all commercial mining operations. Said permit shall be valid for a period of time set by the County Planning Commission; after which, a permit renewal shall be required.

(2) Persons requesting a mining permit shall submit said fee to the County Planning Commission together with all information required in this section. The owner shall provide five copies of the required information.

(3) All residents and landowners within a quarter mile of the proposed mining operations shall be notified in writing of the permit request and the date of the Planning Commission review. Notification shall be mailed at least ten days prior to the Planning Commission review.

(4) For mining operations which will last only one season, such as for road projects, the Planning Commission may issue a temporary mining permit. Such permit may include the placement of a bituminous hot mix plant and other accessory equipment. Said permits shall only apply if the mining site is to be opened, closed and reclaimed within one year. The Zoning Administrator may waive some of the information required by division (C) below in the case of a temporary mining permit. A temporary mining permit shall be administered as a conditional use permit.

(5) If the request is denied, no reapplication shall be made for a period of six months.

(C) *Information required.* 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 of the entire site and to include all areas within 500 feet of the site. All maps shall be drawn to a scale of one inch to 100 feet unless otherwise stated below:

(a) Map A, existing conditions to include:

1. Contour lines at five-foot intervals;

2. Existing vegetation;
3. Existing drainage and permanent water areas;
4. Existing structures; and
5. Existing wells.

(b) Map B, proposed operations to include:

1. Structures to be erected;
2. Location of sites to be mined showing depth of proposed excavation;
3. Location of tailings deposits showing maximum height of deposits;
4. Location of machinery to be used in the mining operation;
5. Location of storage of mined materials, showing height of storage deposits;
6. Location of vehicle parking;
7. Location of storage of explosives; and
8. Erosion and sediment control structures.

(c) Map C, end use plan to include:

1. Final grade of proposed site showing elevations and contour lines at five-foot intervals;
2. Location and species of vegetation to be replanted; and
3. 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; and

(7) Any other information requested by the Planning Commission or Zoning Administrator.

(D) *Renewal of mining permits.* All property owners and residents within a quarter mile of the mining operation shall be notified of a mining permit renewal request.

(E) *Use restrictions.*

(1) Mining operations shall be a conditional use in the Agricultural District.

(2) The crushing, washing, refining or processing, other than the initial removal of material, shall be considered a conditional use.

(3) In stone quarries, the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a conditional use.

(4) The manufacture of concrete building blocks or other similar blocks, the production or manufacture 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.

(5) The governing body may impose additional performance standards as part of the conditional use permit.

(F) *Performance standards.*

(1) *General provisions.*

(a) Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

(b) No sand and gravel operation shall be conducted on parcels of less than 20 acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same sand and gravel producer.

(c) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. All non-conforming uses shall apply and obtain a permit.

(2) *Water resources.*

(a) The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

(b) The mining operation shall not adversely affect the quality of surface or subsurface water resources.

(c) Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

(3) *Safety fencing.* Any mining operation adjacent to a residential zone or within 300 feet of two or more residential structures shall be bound by the following standards.

(a) Where collections of water occur that are one and one-half feet or more in depth existing for any period of at least one month, and occupy an area of 700 square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence at least four feet in height.

(b) In locations where slopes occur that are steeper than one foot vertical to three feet horizontal existing for a period of one month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four feet in height.

(4) *Mining access roads.* The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public road in view so that any turns onto the public road can be completed with a margin of safety.

(5) *Screening barrier.*

(a) To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be maintained between the mining site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the mining site and any public road within 500 feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

(b) Existing trees and ground cover along public road frontage shall be preserved, maintained (and supplemented), for the depth of the roadside setback, except where traffic safety requires cutting and trimming.

(6) *Setback.*

(a) Processing of minerals shall not be conducted closer than 100 feet to the property line, nor closer than 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. The processing of minerals shall not be conducted within shoreland structure setback distances.

(b) Mining operations shall not be conducted closer than 30 feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than 30 feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such adjoining property is first secured in writing.

(c) Mining operations shall not be conducted closer than 30 feet to the right-of-way line of any 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.

(7) *Appearance.* All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

(8) *Hours of operation.* All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. Any operations not conducted between the hours of 7:00 a.m. and 7:00 p.m. shall require a conditional use permit. Such permits shall be granted for public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

(9) *Dust and dirt.*

(a) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within 600 feet of the mining operations lot line.

(b) All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

(c) These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than 150 yards to another zone other than an industrial zone.

(G) *Land rehabilitation.*

(1) All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one year. The following standards shall apply.

(a) Within a period of three months after the termination of a mining operation, or within three months after abandonment of such operation for a period of six months, or within three months after expiration of a mining permit, all buildings, structures and plants 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. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply

for only one year, after which said buildings, structures, machinery and plants shall be removed.

(b) The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed 23% in grade.

(c) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three inches.

(2) Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted, but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosions.

(3) Excavations completed to a water producing depth need not be back-filled if the water depth is at least ten feet and if banks shall be sloped to the water line at a slope no greater than two feet horizontal to one foot vertical.

(4) The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

(Ord. 18-4, passed 6-19-2018)

§ 155.101 LAND ALTERATIONS.

(A) Permit required.

(1) A land alteration permit shall be required in all cases where excavation, grading and/or filling of any land within the county would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion or would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the county.

(2) (a) Substantial alteration shall be defined as the extraction, grading or filling of land involving movement of earth and materials in excess of 50 cubic yards in the shorelands districts, and in excess of 500 cubic yards in all other districts except drain tiles and ditch cleaning in agricultural areas. Such substantial alteration shall require a conditional use permit.

(b) The creation of wildlife ponds, pollution control structures and erosion control structures shall not require a conditional use permit, provided that said construction is approved by an official of the Soil and Water Conservation District and abides by all other applicable rules, regulations and ordinances.

(3) The extraction, grading or filling of land involving the movement of earth and materials in excess of ten cubic yards within shore, bluff impact zones or steep slopes in shoreland areas shall require an administrative permit, but not a conditional use permit.

(4) Public road improvement projects, and grading and excavation directly related to such projects (not to include gravel pits), shall not require a land alteration permit; provided, the work is directly supervised by the County Engineer or the governing body of a local unit of government.

(5) A land alteration permit is also required from the county and from the Commissioner of Natural Resources for any alteration in the Floodplain District and the Shorelands Districts. Such alteration shall include any filling, dredging, channeling or any other work in the beds of public waters which would change the course, current or cross-section of a public water.

(6) A land alteration permit shall be valid for a period of six months from the date of issue. A land alteration permit shall be administered in the same manner as a conditional use permit.

(B) Requirements. Before the issuance of a land alteration permit or an administrative land alteration permit, it must be established that all of the following conditions are met. These conditions must also be adhered to during the issuance of construction permits, permits, conditional use permits, variances and subdivision approvals.

(1) Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (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 state's Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised):

(a) Sediment and pollutant trapping and retention;

(b) Storage of surface runoff to prevent or reduce flood damage;

(c) Fish and wildlife habitat;

(d) Recreational use;

(e) Shoreline or bank stabilization; and

(f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

(2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is

exposed for the shortest time possible.

- (3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
- (4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- (5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- (6) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- (7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater.
- (8) Fill or excavated material must not be placed in bluff impact zones.
- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. §§ 103G.301 through 130G.315, as it may be amended from time to time.
- (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- (11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(C) *Connections to public waters.* Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, require a conditional use permit. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. 18-4, passed 6-19-2018)

§ 155.102 SINGLE-FAMILY DWELLING STANDARDS.

In order to prevent blight, to protect the general welfare and property values, and to ensure reasonable consistency with existing housing styles and designs, the following minimum standards shall apply to all single-family dwellings, in addition to any other standards or conditions contained within this chapter.

- (A) Building shall be anchored to a permanent concrete or treated wood foundation, in accord with the Minnesota State Building Code standards.
- (B) The minimum width of the structure shall be 24 feet, as measured across the narrowest portion. Width measurements shall not take into account overhangs, nor other projections beyond principal walls.
- (C) There shall be a minimum 3:12 roof pitch with a minimum 12-inch soffit. Alternative roof styles may be approved by the Building Inspector based on generally accepted construction practices, building codes and the nature of the surrounding neighborhood. Unadorned flat roofs shall be prohibited.
- (D) Only new units shall be permitted. The relocation of previously occupied units shall require a conditional use permit.

§ 155.103 RULES AND DEFINITION OF HOME EXTENDED BUSINESS.

- (A) Business must be located on the homestead of the business operator.
- (B) No more than one employee in addition to the owner/operator and family members residing at the homestead.
- (C) All work and work related items shall be kept in an enclosed structure. In very limited circumstances, the Planning Commission may allow for the storage of items in a fully enclosed fence. Trees, plants, and bushes do not qualify as fencing; but these items may be required as part of an overall landscaping plan.
- (D) Shall provide two parking spaces per employee of one space for each 400 square feet of building area, whichever is greater.
- (E) Excessive noise levels are prohibited (that which may be considered a nuisance, L10 at 55 dBA decibels as regulated by NPC regulations).
- (F) Lot coverage must comply with all zoning standards.
- (G) Site must be capable of supporting on-site sanitary facilities, sewer and water.
- (H) All effluent consisting of any liquid, gaseous or solid waste substance resulting from any process of manufacturing (i.e., sewage or industrial waste) shall not be discharged into the soil, water or air unless it is at a location determined appropriate by the Planning Commission, Planning Staff and/or Pollution Control Agency.
- (I) The operator must properly dispose of all waste including, but not limited to, garbage, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil, tar, chemicals, offal and all other substances.

(J) Working hours shall be set by the County Planning Commission.

(K) A business sign shall be permitted which is no larger than 35 square feet; it may not be illuminated.

(L) If located on a township road and determined necessary by the town board, a letter of agreement containing any dust control measures determined necessary by the township shall be provided prior to issuance of the conditional use permit and renewed annually (January 1 of every year).

(M) All posted road limits shall be obeyed.

(N) Distance from building to next residence shall be at least 500 feet.

(O) Must be outside of platted areas.

(P) Building shall be no larger than 2,000 square feet.

(Q) After four founded nuisance or permit violation complaints have been made and verified with written notice to the holder of the conditional use permit or at any time upon the written request of the town board a hearing shall be called to re-consider the conditional use permit within 60 days.

(R) Building must conform to present buildings and to neighborhood.

(Ord. 16-6, passed 10-18-2016)

§ 155.104 PERFORMANCE STANDARDS FOR RETREAT CENTERS.

(A) *Size and density for residential buildings.* A retreat center must be located on a parcel of land which includes at least 40 contiguous acres. The number of residential buildings may not exceed the number of residences on the land as allowed by the underlying zoning district, but may include the number that would be allowed by transferring entitlements from contiguous property as defined in section § 155.048 of this chapter, but not any extra units that may have accrued to a rural PUD as defined in § 155.059 of this chapter. For as long as the retreat center operates, there shall be no other residential buildings, nor subdivisions allowed on the land designated for the retreat center. The residential buildings shall be detached from any communal facilities, accommodations for sleeping and sanitation may be provided. The residential buildings shall not be dwelling units, and shall not include kitchen facilities; except that, one unit may be approved as a residence for a caretaker and family. Other than a caretaker's residence, no one person or family may occupy the residential buildings (one, or more than one in combination) for more than 30 days per year. Each residential building shall be detached from every other residential building. Except for a caretaker's residence, no residential building shall exceed 750 square feet of total floor area. No dormitories, apartments, condominiums, nor any other type of multiple dwelling units, are allowed. Each residential building shall be accessible to emergency service vehicles by path or private road, but internal improved streets are not required.

(B) *Communal facilities.*

(1) All structures not defined as residential buildings shall be communal facilities, which may include a nature center, conservatory, interpretive center, exhibit, museum, library or closely related use. One communal facility may provide common showers, bathrooms and kitchen and dining facilities for guests at the retreat center, but no food service nor restaurant may be open to the public. The communal facilities shall not be used as dwelling units, nor motel, hotel, dormitory, rooming house nor any residential occupancy. In no case shall the number of communal facilities exceed three. Buildings used for communal facilities shall not exceed a total of 10,000 square feet of floor space for all such facilities combined.

(2) Only one communal facility shall be used as an interpretive center, museum, library or similar use, and the hours of operation and programming shall be consistent with a retreat center as defined in this chapter, and as approved by the Planning Commission as part of the conditional use permit. The communal facility buildings shall be principally, but not exclusively, for the use of the persons occupying the residential buildings. The one communal facility which may be used as an interpretive center, museum, library or similar use may be available to private guests of the owner of the retreat center, and to the general public only at such hours and days as approved in the conditional use permit and as consistent with the location in a rural area.

(3) Unless the retreat center contains only one structure, there shall not be a separate lot of record for each structure (no lot divisions). Parking requirements shall be included in the terms of the conditional use permit, but the retreat center shall provide at least two parking spaces at any communal facility, and at least two off-street parking stalls for each residential building.

(C) *Other standards and requirements.*

(1) Any use allowed in the zoning district as a conditional use may only be allowed with the retreat center if expressly included in the conditional use permit for the retreat center; except that, commercial outdoor recreation uses are not allowed within the area of the retreat center. The performance standards of §§ 155.047(F) and 155.048(F) of this chapter shall apply; except that, a separate lot shall not be required nor permitted for each structure, and that commercial outdoor-commercial recreation use is not included in the retreat center. Commercial campgrounds and recreation vehicle camps are not allowed, but camping sites may be provided as long as occupancy (number) does not exceed the number that would be allowed if each camping site was a residential building/unit (one family each).

(2) Yard requirements (§§ 155.047(F)(3) through (7) and 155.048(F)(2) through (4) of this chapter), shall not apply to each building and shall only to the retreat center as a whole. Clustering of the buildings on the site shall be allowed, as long as the total number of structures does not exceed the number that would be allowed if the retreat center land was divided into the maximum number of lots permitted in the underlying district for that amount of land. Residential buildings may be clustered as

such, but must remain as detached structures with no common walls.

§ 155.105 FARMLAND PRESERVATION PROPERTY TAX CREDIT PROGRAM.

(A) *Purpose.*

(1) The property tax credit program is enacted to assist in the preservation of commercial agricultural uses and the rural environment necessary for continuing agricultural practices.

(2) The County program is enacted to carry out the goals within M.S. Ch. 40A, Agricultural Land Preservation Program, as it may be amended from time to time, and the County Land Use Plan.

(B) *Eligibility.*

(1) Any and all eligibility requirements contained within M.S. Ch. 40A, as it may be amended from time to time, are incorporated herein by reference, and shall apply as if set forth herein.

(2) Only legally created parcels, lots or lots of record which are designated as Agricultural or Agricultural/Residential in the County Land Use Plan shall be eligible. In those cases where a lot or parcel may lie within two different designations in the Land Use Plan, the land will be eligible; provided:

(a) The majority of the parcel is designated as Agricultural or Agricultural/Residential; and

(b) No part of the parcel is designated as a major growth area.

(3) Only lands which lie entirely within the AG - General Agriculture Zoning District (§155.048 of this chapter) shall be eligible. A residential density no greater than one residence per 40 acres shall be maintained, however, residences existing prior to the adoption of this section shall not preclude eligibility.

(4) Lands enrolled in the program must be legally created parcels, lots or lots of record which are at least 35 acres in size. Smaller parcels may be enrolled subject to approval by resolution of the County Board; provided that:

(a) The smaller parcels adjoin other parcels being enrolled in the program to provide a total greater than 35 acres in size;

(b) No such parcel may be withdrawn from the program except in conjunction with similar parcels with total at least 35 acres in size; and

(c) No such parcel may be used as a new residential building site despite any eligibility granted by this chapter, unless an overall density of one residence per 40 acres is maintained.

(5) Parcels, lots or lots of record may not be subdivided for the purpose of enrolling only part of the property in the program while retaining other parts for development or other non-agricultural uses. Divisions which strictly comply with the provisions of § 155.048 of this chapter may take place before or after enrollment in the program.

(6) Lands lying within any township which has adopted its own zoning ordinance may be eligible, provided, all of the eligibility requirements are met, the local zoning complies with county zoning requirements and approval is obtained, in writing, from the township board of supervisors.

(C) *Procedure/application.*

(1) Requirements for application and inclusion in an exclusive agricultural use zone, as defined in M.S. Ch. 40A, as it may be amended from time to time, and for obtaining the benefits thereof, shall include all those set forth in said Ch. 40A, and shall be adopted herein by reference.

(2) An application fee for processing the application shall be set by the County Board. In addition, the applicant shall be required to pay all necessary fees charged by the County Recorder.

(D) *Benefits and restrictions.* The benefits and restrictions which apply to property enrolled in exclusive agricultural use zones shall be as set forth in M.S. Ch. 40A, as it may be amended from time to time, and shall be incorporated herein by reference.

(E) *Duration and termination.* The duration and termination of an exclusive agricultural use zone shall be as set forth in M.S. Ch. 40A, as it may be amended from time to time, and shall be incorporated herein by reference.

(Ord. passed 8-30-1988; Ord. 18-4, passed 6-19-2018)

§ 155.106 ANTENNAS AND SUPPORT STRUCTURES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **ANTENNA, PERSONAL WIRELESS SERVICE.** A device consisting of a metal, carbon fiber or other electromagnetically conductive rods or elements on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the wiring, related ground equipment and the support structure thereof.

(2) **ANTENNA, MICROWAVE.** A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless communications, and including the wiring, related ground equipment and the supporting structure thereof.

(3) **ANTENNA, RADIO AND TELEVISION BROADCAST TRANSMITTING.** A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the wiring, related ground equipment and the support structure thereof. (Allowed by conditional use in the I-1 District only.)

(4) **ANTENNA, RADIO AND TELEVISION RECEIVING.** A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television or electromagnetic waves, and including the supporting structure thereof.

(5) **ANTENNA, SATELLITE DISH.** A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the wiring, related ground equipment and support structure thereof.

(6) **ANTENNA, SHORT-WAVE RADIO TRANSMITTING AND RECEIVING.** A wire, set of wires or a device, consisting of a metal, carbon fiber or other electromagnetically conductive element used for the transmission and reception of radio waves used for non-commercial short-wave radio communications, and including the supporting structure thereof.

(7) **ANTENNA SUPPORT STRUCTURE.** Any pole, telescoping mast, tower, tripod or any other structure which supports a device used in the transmitting or receiving of electromagnetic energy.

(B) *General standards.* The following standards shall apply to all antennas.

(1) All obsolete and unused antenna shall be removed within 12 months of cessation of use, unless a written exemption is granted by the Zoning Administrator.

(2) All antenna shall be in compliance with all federal, state and local building, electrical and other relevant code requirements.

(3) Structural design, mounting and installation of any antenna support structure shall be in compliance with manufacturer's specifications. The construction plans and design of any antenna requiring a permit shall be verified and approved by a registered professional engineer.

(4) No advertising message, nor identification, shall be affixed to any antenna structure.

(5) Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public health and safety. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five feet from all lot lines. Guy wires within ten feet of the ground surface must be fenced within an enclosure or maintained with a cover of highly reflective material to prevent accidental collision.

(6) When applicable, proposals to erect new antenna shall be accompanied by any required federal, state or local agency licenses or proof of application thereof.

(7) Antenna support structures under 200 feet in height shall be painted or coated silver or have a galvanized finish to reduce visual impact, unless otherwise required by federal law. Silver or galvanized finishes shall be required unless the setting or natural surroundings can be used to justify another color.

(8) No land may be subdivided for the purpose of providing space for any antenna unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.

(9) No antenna to be used for any commercial purpose shall be placed on any land enrolled in the exclusive agricultural use zone Farmland Preservation Property Tax Credit Program pursuant to § 155.105 of this chapter.

(10) The addition of antennas and associated equipment of an additional provider to an existing legal structure shall be considered co-location and not require an amendment to the conditional use permit.

(C) *Permitted and accessory uses.*

(1) Radio and television receiving antennas and satellite dish antennas shall be permitted in all districts and shall not require any permit provided the following standards are met.

(a) Antennas and necessary support structures, monopoles or towers may extend a maximum of 15 feet above the building height restriction for the affected zoning district.

(b) Any antenna or antenna support structure not located on a building must be located in the rear yard, no closer to any property line than the height of the structure.

(c) The installation of more than one support structure per property shall require the approval of a conditional use permit.

(d) Satellite dish antennas larger than two meters in diameter must meet all building setback standards, and dishes over three meters in diameter are prohibited in all Residential and Shoreland Districts.

(2) Private short wave radio antennas, and other private radio transmitting or receiving antennas are allowed in all districts; provided that, the following standards are met.

(a) The maximum support structure height shall be 75 feet and all other standards of division (B) above must be met.

(b) A use and building permit shall be required in accord with §155.030 of this chapter.

(c) Radio support structures (towers) must be installed in accordance with the instructions furnished by the manufacturer of that tower model. Antenna mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturers specifications.

(d) Any antenna or antenna support structure not located on a building must be located in the rear yard, no closer to any property line than the height of the structure.

(D) *Personal wireless service and microwave antennas.*

(1) *Residential and Shoreland Districts.*

(a) Antenna and support structures shall not exceed 75 feet in height in the R-1, R-2, R-2a and all Shoreland and Wild and Scenic Districts.

(b) Commercial antennas (other than co-location) and support structures of any type in the R-1, R-2, R-2a and all Shoreland and Wild and Scenic Districts shall require a conditional use permit and be subject to all other requirements for a conditional use listed in division (E) below.

(c) Any antenna or antenna support structure not located on a building must be located in the rear yard, no closer to any property line than the height of the structure.

(2) *Agricultural Districts (AG, General Agriculture and A/R, Agricultural/Residential).*

(a) The Zoning Administrator may issue an administrative use permit for any antenna support structure equal to or less than 130 feet in height, or for any antenna to be located on any pre-existing legal antenna support structure, or for any antenna to be located upon an existing building or structure which does not exceed 15 feet in height above the permitted structure height. An application filed for any new structure must include all the information required for a conditional use permit as specified in division (E) below. If the Zoning Administrator finds that the information submitted does not properly address all of the requirements of this chapter, he or she may require a conditional use permit upon providing the applicant a written summary of the reasons for this finding.

(b) A conditional use permit shall be required for any antenna or support structure over 130 feet in height. No structure shall be located closer to any property line than the height of the structure.

(3) *Commercial Districts (B-1, B-2 and I-1).*

(a) The Zoning Administrator may issue an administrative use permit for any antenna support structure equal to or less than 130 feet in height, or for any antenna to be located on any pre-existing legal antenna support structure, or for any antenna to be located upon an existing building or structure which does not exceed 15 feet in height above the permitted structure height. An application filed for any new structure must include all the information required for a conditional use permit as specified in division (E) below. If the Zoning Administrator finds that the information submitted does not properly address all of the requirements of this chapter, he or she may require a conditional use permit upon providing the applicant a written summary of the reasons for this finding.

(b) A conditional use permit shall be required for any antenna or support structure over 130 feet in height. No structure shall be located closer to any property line than one-half the height of the structure, exceptions to such setback may be granted if a structural engineer licensed in the state specifies in writing that any failure or collapse of the structure will occur within a lesser distance under all foreseeable circumstances.

(E) *Standards and requirements for conditional use permits.*

(1) *Information required with application.* In addition to the standard application materials required by §155.029 of this chapter for a conditional use permit, no application for an antenna shall be complete unless the following data has been submitted.

(a) Documentation of the area to be served, including a search ring for the antenna location. A narrative describing a search ring (with not less than a one-half mile radius) for the request clearly explaining why the site was selected and what existing (over 100 feet in height) structures were available and why they are not suitable as locations or co-locations.

(b) Documentation that the communications equipment planned for the proposed structure cannot be accommodated on any existing or approved structure within the search ring of the service area due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved structure or building, as documented by a qualified structural engineer, and the existing or approved structure cannot be reinforced or modified to accommodate planned equipment at a reasonable cost (or within a reasonable time);

2. The planned equipment would cause interference with other existing or planned equipment at location as documented by a qualified radio frequency (RF) engineer, and the interference cannot be prevented at a reasonable cost;

3. No existing or approved structures or buildings within a half-mile radius meet the radio frequency (RF) design

criteria;

4. Existing or approved structures and buildings within a one-half mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency (RF) engineer; or

5. A good faith effort to co-locate on existing structures within a one-half mile radius was made, but an agreement could not be reached.

(c) An agreement stating that structures over 130 feet tall will be designed for not less than three users (including the applicant) with applicant and property owner commitment to co-location on reasonable market terms in good faith; any prohibition of additional users on a tower will be considered a violation of the conditional use permit. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.

(2) *Standards and conditions.* In addition to any terms or conditions applied as a result of the process for issuing a conditional use, the following standards shall apply to all antenna and support structures unless specifically waived by the Planning Commission.

(a) Antenna and support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable codes. Antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(b) Antenna support structures shall be constructed of, or treated with, corrosive resistant material.

(c) Any proposed support structure over 130 feet in height shall be designed, in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. To allow for future rearrangement of antennas, the structure shall be designed to accept antennas mounted at no less than ten-foot intervals. Support structures less than 130 feet and greater than 75 feet in height shall be designed for a total of two users.

(d) All support structures shall be reasonably protected against unauthorized climbing. The bottom of the structure (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing and shall be enclosed with a minimum of an eight-foot high chain link fence with a locked gate.

(e) All antennas and support structures shall utilize building materials, colors, textures, screening and landscaping that blend the tower facilities within the surrounding natural setting and built environment to the greatest extent possible.

(f) No part of any antenna or support structure, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway or sidewalk, unless specifically approved by the county.

(Ord. 18-4, passed 6-19-2018)

§ 155.107 WIND ENERGY CONVERSION SYSTEMS.

(A) *Purpose.* This chapter is established to regulate the installation and operation of wind energy conversion systems (WECS) within the county not otherwise subject to siting and oversight by the state under M.S. Ch. 216F, as it may be amended from time to time.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **AGGREGATE PROJECT.** Those which are developed and operated in a coordinated fashion, but which may 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 **AGGREGATE PROJECT.**

(2) **COMMERCIAL WECS.** A WECS of equal to or greater than 40 kW in total nameplate generating capacity.

(3) **FALL ZONE.** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

(4) **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.

(5) **METEOROLOGICAL TOWER.** For the purpose of this chapter, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. **METEOROLOGICAL TOWERS** do not include towers and equipment used by airports, the state's Department of Transportation or other similar applications to monitor weather conditions.

(6) **MICRO-WECS.** Micro WECS are WECS of five kW nameplate generating capacity or less.

(7) **NON-COMMERCIAL WECS.** A WECS of more than five, but less than 40 kW in total name plate generating capacity.

(8) **PUBLIC CONSERVATION LANDS.** Land owned in fee title by county, state or federal agencies and managed specifically for conservation purposes, including, but not limited to, county parks, state wildlife management areas, state parks,

state scientific and natural areas, federal wildlife refuges and waterfowl production areas. For the purpose of this section, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. **PUBLIC CONSERVATION LANDS** do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

(9) **ROTOR DIAMETER.** The diameter of the circle described by the moving rotor blades.

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

(11) **TOTAL HEIGHT.** The height of a WECS as measured from ground level to the highest point reached by a rotor tip or any other part of the WECS.

(12) **TOWER.** Vertical structures that support the electrical generator, rotor blades or meteorological equipment.

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

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

(15) **WIND TURBINE.** Any piece of electrical generating equipment that converts kinetic energy of blowing wind into electric energy through the use of airfoils or similar devices to capture the wind.

(C) *Applications.*

(1) All applications for micro WECS, non-commercial WECS and meteorological towers shall include the following information:

(a) The name of project applicant;

(b) The name of the property owner;

(c) The legal description and address of the property;

(d) A description of the project including: number, type, nameplate generating capacity, tower height, rotor diameter and total height of all wind turbines and means of interconnecting with the electrical grid;

(e) Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid and all related accessory structures. The site layout shall include separation/setback distances and be drawn to scale;

(f) Plan designed by a state licensed engineer for footings and structure;

(g) Documentation of land ownership or legal control of the property; and

(h) Life expectancy of the WECS and proposed abandonment date.

(2) All applications for commercial WECS shall also include:

(a) The latitude and longitude of individual wind turbines;

(b) A half-section map of the property and surrounding area, including any other WECS within a quarter mile of the proposed WECS;

(c) Location of wetlands and natural areas (including bluffs) within one-quarter mile of the proposed WECS;

(d) FAA permit application;

(e) Evidence of power purchase contracts;

(f) Location of all known communication towers within two miles of the proposed WECS;

(g) Decommissioning plan;

(h) Description of potential impacts on nearby WECS and wind resources on adjacent properties;

(i) Road and grading plans, including drainage and erosion control measures; and

(j) A National Pollutant Discharge Elimination System (NPDES) permit, if required.

(D) *Aggregated projects.* Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews and, as appropriate, approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project. The state's Public Utilities Commission shall be the site permitting authority for all WECS with a nameplate generating capacity of five megawatts or more.

(E) *District regulations.*

<i>District</i>	<i>Micro-WECS</i>	<i>Non-Commercial WECS</i>	<i>Commercial WECS</i>	<i>Meteorological Tower</i>
<i>District</i>	<i>Micro-WECS</i>	<i>Non-Commercial WECS</i>	<i>Commercial WECS</i>	<i>Meteorological Tower</i>
AG – General Agriculture	Permitted*	Permitted*	Conditional use permit	Permitted*
AR – Ag/Residential	Permitted*	Conditional use permit	Prohibited	Prohibited
B1 – Highway Business	Permitted*	Conditional use permit	Conditional use permit	Permitted*
B2 – General Business	Permitted*	Conditional use permit	Conditional use permit	Permitted*
I1 – General Industry	Permitted*	Conditional use permit	Conditional use permit	Permitted*
R1 – Urban Rural Transition	Prohibited	Prohibited	Prohibited	Prohibited
R2 – Suburban Residential	Conditional use permit	Prohibited	Prohibited	Prohibited
R2a -Suburban Residential (a)	Conditional use permit	Conditional use permit	Prohibited	Prohibited
Shoreland Overlay	Prohibited	Prohibited	Prohibited	Prohibited
WS – Wild and Scenic	Prohibited	Prohibited	Prohibited	Prohibited

NOTES TO TABLE:
 *Any WECS support tower or meteorological tower 130 feet or more in height shall require a conditional use permit.

(F) *Setbacks; wind turbines, tower and related structures.*

	<i>Micro-WECS</i>	<i>Wind-Turbine – Non-Commercial WECS</i>	<i>Wind Turbine – Commercial WECS and Meteorological Towers</i>
	<i>Micro-WECS</i>	<i>Wind-Turbine – Non-Commercial WECS</i>	<i>Wind Turbine – Commercial WECS and Meteorological Towers</i>
Bluffs	1,000 feet	1,000 feet	1,000 feet
Existing WECS	300 feet	750 feet	750 feet
Neighboring occupied structures	1.5 times the total height	750 feet	1,000 feet
Other rights-of-way (railroads, power line and other easements)	1.1 times the total height	1.1 times the total height	1.1 times the total height
Other structures	1.1 times the total height	1.1 times the total height	1.1 times the total height
Property lines	1.1 times the total height	1.1 times the total height	1.5 times the total height
Public conservation lands	1.1 times the total height	1.1 times the total height	600 feet
Road rights-of-way	1.1 times the total height	1.1 times the total height	1.1 times the total height
Wetlands, USFWS Types III, IV and V	1.1 times the total height	1.1 times the total height	600 feet

NOTES TO TABLE:
 Minimum setback standards for substations and feeder lines shall be consistent with the standards for essential services established in § 155.098 of this chapter or as established in the underlying zoning district, whichever is more restrictive.

(G) *Requirements and standards.*

(1) *Safety design standards.*

(a) *Engineering certification.* For all WECS, 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) *Clearance.* Rotor blades or airfoils must maintain at least 20 feet of clearance between their lowest point and the ground.

(c) *Warnings.*

1. For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. The signs must include emergency contact information.

2. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of ten feet above the ground. Visible fencing around the anchor points of guy wires may be substituted for the above referenced markers.

3. All towers and support structures shall be reasonably protected against unauthorized climbing. The bottom of the structure (measured from ground level to 14 feet above ground level) shall be designed in a manner to preclude unauthorized climbing and/or shall be enclosed with a minimum of an eight-foot chain link fence with a locked gate. The chain link fence will meet the requirements of the 2012 IBC 3109.4.1.5. Depending on design, monopole structure may be exempt for the fence requirement.

(2) *Standards.*

(a) Any WECS support tower or meteorological tower 130 feet or more in height shall require a conditional use permit.

(b) Non-commercial WECS shall have a total height of less than 200 feet.

(c) All wind turbines which are part of a commercial WECS shall be installed with a tubular, monopole type tower.

(d) Meteorological towers must be guyed.

(e) All wind turbines and towers that are part of a commercial WECS shall be white, gray, or another non-obtrusive color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective.

(f) Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by the Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination. Red pulsating incandescent lights should be avoided.

(g) All signage on-site shall comply with § 155.097 of this chapter. The manufacturer's or owner's company name and/or logo may be placed upon the compartment containing the electrical generator of the WECS.

(h) All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried.

(i) Solid and hazardous wastes, including, but not limited to, crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(j) A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to ground level within 90 days of the discontinued use.

(k) Each commercial WECS shall have a decommissioning plan outlining the anticipated means and costs of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimate shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.

(l) Upon issuance of a conditional use permit, all commercial WECS shall notify the Environmental Quality Board Power Plant Siting Act program staff of the project location and details on the survey form specified by the Environmental Quality Board.

(m) All WECS shall comply with Minn. Rules Ch. 7030 governing noise.

(n) All WECS shall comply with Federal Aviation Administration (FAA) standards and permits.

(o) All WECS shall comply with the Building Code adopted by the state.

(p) Applicants for WECS shall be responsible for restoring or paying damages to all applicable road authority sufficient to restore the roads and bridges to preconstruction conditions.

(q) The applicant for a WECS shall be responsible for the immediate repair or damage to public drainage systems

stemming from the construction, operation or maintenance of the WECS.

(r) Guy wires and guy wire anchors shall not be erected within public or private easements and shall be setback a minimum of five feet from all property lines.

(s) No land may be subdivided for the purpose of providing space for any WECS unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.

(3) *Interference.* The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the County for permits. No WECS shall be constructed so as to interfere with the county or the state's Department of Transportation microwave transmissions.

(4) *Abandonment.*

(a) At such time that a WECS is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by U.S. mail of the proposed date of the abandonment or discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the owner or applicant shall physically remove any small wind energy system greater than 130 feet in height within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector. **PHYSICALLY REMOVE** shall include, but not be limited to:

1. Removal of the wind generator, tower and all related above-grade structures; and

2. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

(c) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a notice of abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the notice within 30 days from receipt of notice. After review of the information provided by the owner, the Building Inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Building Inspector shall withdraw the notice of abandonment and notify the owner of the withdrawal.

(d) If the owner fails to respond to the notice of abandonment or if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the system shall physically remove the system at the owner's sole expense within 90 days of the receipt of the notice of abandonment. If the owner fails to physically remove the system after the notice of abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

(Ord. passed 12-1-2015; Ord. 18-4, passed 6-19-2018)

§ 155.108 SOLAR ENERGY FARMS AND SOLAR ENERGY SYSTEMS.

(A) *Purpose.* The purpose of this section is to set forth standards for solar energy farms and solar energy systems for the county. It is the intent of the county in adopting this section that solar energy farms are a temporary use and interim in nature and the property be returned to its agricultural use at the conclusion of the conditional use permit for all solar energy farms.

(B) *Definitions.*

SOLAR ENERGY FARMS. Solar energy farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and have an alternating current (AC) rated capacity greater than 100 kilowatts AC. Solar energy farms require a conditional use permit. Solar energy farms are allowed up to eight megawatts AC. Solar energy farms are a temporary use and interim in nature and cannot exceed 30 years.

SOLAR ENERGY SYSTEMS. Solar energy systems are any combination of solar panels on a parcel of property with a combined energy rated capacity not to exceed 100 kilowatts AC. Solar energy systems ten kilowatts AC and under are permitted as accessory uses in all zoning districts. Solar energy systems over ten kilowatts AC and not exceeding 100 kilowatts AC in all zones except for General Agriculture (AG) require a conditional use permit.

UTILITY INTERCONNECTION. Point where the solar energy system or solar energy farm connects to the utility company system.

(C) *Solar energy farms requirements and standards.* Solar energy farms shall be subject to the following performance standards and restrictions:

(1) *Residential districts prohibited.* Solar energy farms are prohibited in residential districts

(2) *Height at maximum design tilt.* Solar energy farms in Agricultural, Commercial and Industrial Zoning Districts may not exceed 20 feet in height at maximum design tilt.

(3) *Location within lot.* A solar energy farm must meet the primary structure setbacks for the zoning district in which it is located. A minimum setback distance of 100 feet is required to all adjacent primary residential structures. Setbacks will be measured from the closest point of the project, which shall include any perimeter fencing. The Planning Commission may require greater setback distances.

(4) *Land alterations.* The Planning Commission shall review the associated land alteration for a solar energy farm and issue a conditional use permit for that land alteration as part of the request for the solar energy farms conditional use permit. Excavation plans must include proposed vegetation removal such as trees or other prominent natural vegetation and alteration of soils. No more than three acres or 7% of the project area, whichever is greater, of trees may be removed from any site. Under no circumstances can tree removal be more than 50% of the project area. Limited excavation may be allowed only where a road, berm, or other solar infrastructure, excluding panel locations, are proposed as deemed necessary by the Planning Commission.

(5) *Screening and vegetation.* A screening barrier will be required and maintained between the solar project and adjacent residences. It may also be required along roadways if the Planning Commission deems it necessary. Screening is required to be planted on the outside of the solar farms perimeter fence where deemed necessary by the Planning Commission. The Planning Commission may require additional screening between solar energy farms and adjoining properties. Perennial vegetative cover shall be established within 60 days of the completion of the project. Once the conditional use permit has been issued the solar company and property owner are responsible for proper vegetative maintenance. Noxious weeds are prohibited from growing on the property. The Planning Commission may create a condition specifying the type of vegetative cover to be used for the project, this requirement may include the requirements stated in M.S. § 216B.1642.

(6) *Storm water management; zoning code.* Storm water management shall meet the requirements of this chapter and the State of Minnesota.

(7) *Erosion and sediment control; zoning code.* Erosion and sediment control shall meet the requirements of this chapter and the State of Minnesota.

(8) *Foundations.* The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels are within accepted professional standards, given local soil and climate conditions.

(9) *Other standards and codes.* All solar energy farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; the National Electric Code and National Electric Safety Code as amended.

(10) *Onsite internal power and communication lines.* Internal power and communication lines running among banks of solar panels to the point of utility interconnection or interconnections with buildings shall be buried underground. Exemptions may be granted by the Planning Commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(11) *Onsite external power and utility interconnection.* All grounding transformers, the utility interconnection to the main electrical grid, electrical meters, main service meters, protective relays, reclosers, and any other similar electrical meter, regulator, control, or shut off device shall be ground-mounted unless specifically permitted to be aerially mounted by the Planning Commission. Utility poles associated with each solar energy farm shall be limited to up to one general utility pole and one additional pole for each permitted megawatt AC of electricity. The Planning Commission may require fewer utility poles. Utility poles legally permitted in any road right-of-way or which are currently existing are not included in this calculation. The proposed placement of all utility poles and any proposed aerially mounted equipment shall be shown in any proposed plans submitted. The Planning Commission shall specifically approve the placement of all utility poles outside of the road right-of-way.

(12) *Internal service roads.* All constructed internal roads will be allowed under limited circumstances as deemed necessary by the Planning Commission for the project area. If allowed all aggregate internal service roads will be required to have a road grade geotextile fabric below the surface of the aggregate to allow for removal of the road to reclaim the property back to its original state. The Planning Commission may allow for exceptions to the reclamation standard in situations in which the property owner files an affidavit asserting the road will have an agricultural or commercial value at the conclusion of the solar energy farm permit.

(13) *External roads and road access.* Before a permit is issued a written agreement by the applicable road authority must be submitted to the Planning and Zoning Department for the approval of any road right-of-way construction. The road authority may require a separate bond or letter of credit for the maintenance of external roads adjacent to the project area. This bond or letter of credit may be held by the road authority or the county.

(14) *Agreement for decommissioning and public infrastructure.*

(a) As part of the conditions for all solar energy farms, the Planning Commission shall require all applicants and property owners to enter into an agreement with the county for protection from the developer and property owner of all public infrastructure and to require security for the ongoing maintenance of the site during the permit, and for the decommissioning and reclaiming of the property.

(b) Prior to receiving an application for a building permit or making any improvements to the property the applicant and property owner shall enter into a contract in writing with the county requiring the applicant to indemnify the county for damage to any public improvements or infrastructure at the applicant's sole cost and in accordance with the county's specifications and usual contract conditions.

(c) The agreement shall require the applicant to create an escrow deposit or furnish an irrevocable letter of credit or a certified check as is determined by the County Attorney, County Engineer, and County Administration. The amount of the deposit or security is to be based upon the estimate of the total cost to remove any infrastructure and reclaim the property to its original condition at the conclusion of the solar energy farm. The salvage or resale value of the infrastructure shall not be used in calculating any offset or credit against the estimate of the total cost to remove the infrastructure and reclaim the

property to its original condition. The deposit or security shall equal 150% of the estimate of all costs to remove any infrastructure and reclaim the property, plus any amount deemed necessary by the County Engineer to protect any public infrastructure during the construction or decommissioning of this project. This amount may be reduced or increased upon approval of a County Board resolution based upon such consideration as the size of the project, past performance by the applicant and/or financial credibility of the applicant, but in no case shall the amount be less than 50% of the estimate. On request of the applicant, if evidence is presented that the described work and improvements have been paid for, the amount of the deposit may be reduced in a sum equal to the estimated cost of the reclamation work so completed. Notwithstanding the aforementioned, the initial escrow deposits or surety shall comply with the minimum requirements in the table below:

Minimum Amounts for Initial Solar Farm Escrow Deposit or Surety	
Minimum Amounts for Initial Solar Farm Escrow Deposit or Surety	
Solar Farms 1.00 MW and less	\$100,000
1.01 to 1.49 MW	\$150,000
1.50 to 1.99 MW	\$200,000
2.00 to 2.99 MW	\$250,000
3.00 to 3.99 MW	\$300,000
4.00 to 4.99 MW	\$350,000
5.00 MW and above	\$400,000

(15) *Application requirements.* The following information shall be provided to the County Planning and Zoning Department for application of a conditional use permit:

(a) A site plan of existing applicable conditions showing the following:

1. Existing property lines and property lines extending 100 feet from the exterior boundaries.
2. Existing public and private roads and any easements.
3. Location and size of any abandoned wells and sewage treatment systems.
4. Existing buildings and any impervious surface.
5. Topography at two-foot intervals and source of contour interval, unless determined otherwise by the County planning and Zoning Department.
6. Existing vegetation.
7. Waterways, watercourses, lakes and wetlands.
8. The 100-year flood elevation and regulatory flood protection elevation, if available.
9. Floodway, flood fringe and/or Flood Plain (FP) District boundary, if applicable.
10. The Shoreland District boundary, if any portion of the project is located in a Shoreland District.
11. In the Shoreland District, the ordinary high water level.
12. In the Shoreland District, the toe and top of a bluff within the project boundaries.
13. Surface water drainage patterns.
14. Location of existing drain tiles. When a drain tile is located on the site it shall be avoided whenever possible. All drain tiles located on the property must be replaced if they are found to be broken or in need of repair.

(b) Site plan of proposed conditions:

1. Planned location and spacing of solar panels.
2. Planned location of access roads.
3. Planned location of all utility poles and underground or overhead electric lines connecting the solar energy farms or solar energy systems to the point of interconnection. The location of any utility poles shall also be shown on the site plan.
4. Planned new electrical equipment other than at the existing building or substation that is the connection point for the solar energy farm.
5. Proposed excavation plans, including erosion and sediment control measures as required in §§155.084 and 155.101 of this chapter.
6. Proposed screening plan and vegetation plan for the project area is required.
7. Proposed storm water management controls, where applicable.
8. The identification and mapping of new drain tile on site.

9. Sketch elevation of the premises accurately depicting the proposed solar energy farm or solar energy systems and its relationship to structures on adjacent lots (if any) unless determined otherwise by the County Planning and Zoning Department.

(c) Specifications and proposed installation methods for all planned major equipment, including solar panels, mounting systems and foundations for poles or racks.

(d) The planned number of panels to be installed.

(e) A description of the method of connecting the array to the utility interconnection.

(f) A copy of the submitted interconnection application with the local electric utility or a written explanation outlining why an interconnection application is not necessary. The proposed utility interconnection design plan must also accompany the application for the conditional use permit.

(g) A decommissioning plan shall be required to ensure that the infrastructure improvements are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan describing the financial resources that will be available to fully decommission the site. The decommissioning plan shall also include a statement that any unused or obsolete equipment shall be removed by the property owner and/or applicant. Said plan shall be signed by the applicant and the property owner and shall be attached to and become part of the permit. The applicant and property owner shall enter into an agreement and provide security for the decommissioning as outlined in § 155.108(C)(14).

(16) Any conditional use permit issued under this section for solar energy farms is temporary and interim in nature. The conditional use permit for solar energy farms shall expire at the same time the solar energy farm lease expires, but in no case shall exceed 30 years. A new conditional use permit can be applied for and the county may issue a new conditional use permit for an existing solar energy farms under the terms of § 155.029 of this chapter. The Planning Commission may waive the expiration requirement for solar energy farms located on property owned by public utilities and other unique owner operated facilities.

(17) The final utility interconnection design and approval must be submitted to the Planning and Zoning Department before the building permit can be issued.

(D) *Solar energy systems requirements and standards.*

(1) *Accessory building limit.* Solar energy systems, either roof or ground-mounted, do not count as an accessory building for the purpose of limits on accessory buildings.

(2) *Height.* Solar energy systems are subject to the following height requirements:

(a) Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.

(b) Ground or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt in Residential Zoning Districts and may be allowed up to 20 feet in other zoning districts.

(3) *Location within lot.* Solar energy systems must meet the accessory structure setback for the zoning district it is located within and will be measured from the closest point at maximum orientation. If attached to the primary structure, the solar energy systems must meet the setbacks for the primary structure.

(4) *Approved solar components.* Electric solar energy system components must have an Underwriters Laboratory (UL) listing.

(5) *Compliance with state electric code.* All Solar Energy Systems shall comply with the Minnesota State Electric Code.

(6) *Utility notification.* No solar energy system shall be installed until evidence has been given to the County Planning and Zoning 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.

(7) *Conditional use permit.*

(a) The Planning Commission shall review the associated land alteration for a solar energy system and issue a conditional use permit for that land alteration as part of the request for the solar energy farms conditional use permit. Excavation plans must include proposed vegetation removal such as trees or other prominent natural vegetation. No more than three acres or 7% of the project area, whichever is greater, of trees may be removed from any site. Under no circumstances can tree removal be more than 50% of the project area. Limited excavation may be allowed only where a road, berm, or other solar infrastructure, excluding panel locations, are proposed as deemed necessary by the Planning Commission.

(b) Screening barrier may be required.

(c) The Planning Commission may require standards similar to solar energy farms as deemed necessary.

(d) Conditional use permits for solar energy systems do not expire unless the solar energy system is removed or unless terms are violated.

(Ord. passed 7-28-2015; Ord. 16-2, passed ---; Ord. 16-7, passed 11-1-2016; Ord. 18-2, passed 6-19-2018; Ord. 18-4, passed

§ 155.109 COMMERCIAL AGRICULTURAL TOURISM.

(A) *Purpose.* This section is adopted for the purpose of:

- (1) Preserving the county's agricultural and rural heritage and landscapes.
- (2) Enhancing the county's appeal to visitors who are drawn to its rural and agricultural environment.
- (3) Providing opportunities for new economic growth through commercial agricultural tourism.
- (4) Allowing for commercial agricultural tourism that does not conflict with permitted agricultural operations and developed residential areas.

(B) *Standards.* The following standards shall apply to all commercial agricultural tourism uses.

- (1) Commercial agricultural tourism shall be located on a parcel of at least ten acres in size which has a residence or entitlement.
- (2) Commercial agricultural tourism shall be shown to have a unique or demonstrable relationship with the county and be correlated to agricultural and rural features in accordance with the above stated purposes.
- (3) Large scale events and gatherings held inside a building must be associated with an outdoor agricultural or rural outdoor activity, or be seasonal or part-time in nature. Any associated food must be catered. The Planning Commission may allow for limited food preparation provided it meets the underlying intent of the commercial agricultural tourism use. Alcohol must be catered.
- (4) Commercial agricultural tourism shall require a conditional use permit in accord with § 505 of the county Zoning Ordinance and must comply with the county land use plan.

(C) *Conditions.* As part of any conditional use permit the Planning Commission shall adopt conditions which address the following criteria:

- (1) Must not create an excessive demand upon existing services or amenities.
- (2) Must be screened or able to be screened adequately, or are sufficiently separated from adjacent residences to prevent negative impacts to nearby properties.
- (3) Must have an appearance that is consistent and compatible with the surrounding area and land uses.
- (4) Must not cause traffic hazards or undue congestion.
- (5) Must not negatively impact surrounding residences and neighbors by the intrusion of noise, glare, odor, or other adverse effects.

(Ord. 16-01, passed 5--2016; Ord. 16-2, passed ---)

§ 155.110 PUBLIC SCHOOLS.

(A) *Standards.* The following standards shall apply to all public schools:

- (1) The school is supported in whole or in part with funds from the State of Minnesota;
- (2) The school is regulated or licensed by the Commissioner of Education;
- (3) The school is located on a parcel of land that is at least 80 acres in size, has lake shoreline features, and has a significant portion of its land that is wooded or wetland;
- (4) Has an enrollment capacity of 150 pupils or less;
- (5) Has as an essential part of its mission, purpose, or vision an educational component that is significantly related to the environment or nature;
- (6) Is an accessory use to an existing non-profit organization that provides camp and education experiences.

(B) *Conditions.* As part of any conditional use permit the Planning Commission shall adopt conditions which address the following criteria:

- (1) Must not create an excessive demand upon existing services or amenities.
- (2) Must be screened or able to be screened adequately, or are sufficiently separated from adjacent residences to prevent negative impacts to nearby properties.
- (3) Must have an appearance that is consistent and compatible with the surrounding area and land uses.
- (4) Must not cause traffic hazards or undue congestion.
- (5) Must not negatively impact surrounding residences and neighbors by the intrusion of noise, glare, odor, or other adverse effects

(Ord. 17-3, passed ---; Ord. 18-6, passed 10-23-2018)

§ 155.111 TREATMENT AND RECOVERY FACILITIES.

The following performance standards apply to all treatment and recovery uses:

(A) The facility shall be located on a parcel of land that includes at least 70 contiguous acres.

(B) The facility shall include at least 25,000 square feet of total floor area in one or more buildings that may be attached or detached and may contain residential structures such as dwelling units, rooming units, and dormitory space. It may also include communal spaces such as communal kitchen and dining areas, classrooms, offices, chapels, recreation space and similar areas. The number of residential structures may not exceed the number of residences on the land as allowed by the underlying zoning district but may include the number that would be allowed by transferring entitlements from contiguous property as defined in § 155.048 of this chapter. For as long as the treatment and recovery use operates, there shall be no other residential buildings, nor subdivisions allowed on the land designated for the treatment and recovery use.

(C) Clients may reside 24 hours per day under the care and supervision of a chemical dependency treatment or recovery program. The program must be overseen by a staff member with a state-issued professional license in mental health or chemical dependency.

(D) The applicant shall submit a management plan for the facility and a floor plan showing sleeping areas, communal areas, emergency exits, bathrooms and staff living quarters.

(E) Parking requirements shall be included in the terms of the conditional use permit but shall not be less than four spaces for each building. All parking areas must comply with the performance standards for parking unless otherwise stated by the Planning Commission. Each residential building shall be accessible to emergency service vehicles by path or private road, but internal improved streets are not required.

(Ord. 20-1, passed 12-29-2020)

ADULT USES

§ 155.135 ADULT USES OVERLAY DISTRICT (AU).

(A) *Purpose.* The major purposes of the Adult Uses Overlay District and the adult uses licensing and performance standards are:

(1) To provide space for the location of sexually oriented businesses in appropriately zoned districts within the land use jurisdiction of the county;

(2) To separate sexually oriented businesses from areas in which children and other persons who are particularly vulnerable to crime may be expected to frequent;

(3) To minimize the negative impact of traffic, glare and noise generated by the normal operation of sexually oriented businesses on adjacent properties; and

(4) To minimize any potential negative impact on the value and marketability of land adjacent to sexually oriented businesses.

(B) *Definitions.* For the purposes of this section and § 155.136 of this chapter, and in addition to the provisions of §155.003 of this chapter, the following definitions shall apply.

(1) **ADULT USES.** Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

(2) **ADULT BOOKSTORES.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape or motion picture film if 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 or the barter, rental or sale of instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities. "Substantial or significant portion of items", for purposes of this chapter, shall mean more than 15% of usable floor area.

(3) **ADULT CABARET.** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

(4) **ADULT CONVERSATION/RAP PARLOR.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT HEALTH/SPORTS CLUB.** A health/sports club which excludes minor by reason of age, or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT MASSAGE PARLOR.** A massage parlor which restricts minors by reason of age, or which provides the

service of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) **ADULT MINI-MOTION PICTURE THEATER.** A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such 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.

(8) **ADULT MOTION PICTURE THEATER.** A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such 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.

(9) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) **NUDE or SPECIFIED ANATOMICAL AREAS.**

(a) Less than completely and opaquely covered:

1. Human genitals;
2. Pubic region;
3. Buttocks; and
4. Female breast below a point immediately above the top of the areola.

(b) Human male genitals in a discernibly turgid state, even if complete and opaquely covered.

(11) **SPECIFIED SEXUAL ACTIVITIES.**

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy; and

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

(C) *Permitted uses.* All the activities defined in division (B) above, to the extent not otherwise restricted by law.

(D) *The district area.* The Adult Uses Overlay District shall apply to all lands within the jurisdiction of the county shown on the zoning maps and designated General Industry (I-1), Highway Business (B-1) and General Business (B-2) as of 12-31-2004. Any rezoning for the expansion of the I-1, B-1 or B-2 Districts after 12-31-2004, shall not expand the area of the Adult Uses Overlay District, unless that intent is expressly made in the amending ordinance.

(E) *Prohibited uses.* Adult uses shall not be established or maintained as permitted, conditional or accessory uses in any area other than those described and designated in the Adult Uses Overlay District.

(F) *Adult use distance requirements.*

(1) No adult use shall be located within 1,000 feet of:

(a) Any area zoned R-1, R-2, R-2a or R-3;

(b) Any school, public or private, that meets the definition in M.S. § 120A.05, subd. 9, 11, 13 and 17, as they may be amended from time to time;

(c) Any church, as defined in §155.003(B) of this chapter;

(d) Any day care facility that provides for the periodic care of four or more children, while parents or guardians are absent, licensed by the county or the state; or, any residential or non-residential program, as defined in M.S. § 245A.02, as it may be amended from time to time;

(e) Any hotel or motel; and

(f) Any public park.

(2) Distances shall be measured from the nearest point of the property line where the adult use establishment is located to the nearest property line of one of the above listed facilities, or to the nearest boundary of the indicated residential district, whichever is greatest.

(G) *Amortization of non-conforming uses.* Adult uses legally established prior to the enactment of this chapter provision shall be permitted and regulated as non-conforming uses until 12-31-2007 at which time said uses shall be unlawful.

(H) *Additional requirements and restrictions.*

(1) *Additional requirements.* The requirements and standards of this section shall apply to all adult uses in the Adult

Overlay Zoning District. These requirements and standards are in addition to those of the underlying I-1, B-1 and B-2 Zoning Districts. Minimum setbacks from roads, building bulk limitations, as well as minimum lot and building dimensions shall be determined by referring to the specific standards set forth in the underlying zoning district. In the event of a conflict between provisions listed in this section and those listed in other appropriate sections of this chapter, the more restrictive provisions shall apply.

(2) *Alcohol.* Alcoholic beverages shall not be provided, sold, purchased or consumed at any adult establishment where adult uses exist, as defined in division (B) above, nor within 500 feet of the building or structure housing said adult use.

(3) *Licensing.* The licensing provisions of § 155.136 of this chapter apply to adult uses as specified.

§ 155.136 ADULT USES LICENSING AND PERFORMANCE STANDARDS.

(A) *Hours of operation.* No adult uses may be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

(B) *Performance standards for adult cabarets.*

(1) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude. Nude shall be applied in this section as it is defined at § 155.135 of this chapter.

(2) No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.

(3) The owner, operator or manager of an adult cabaret shall provide the following information to the county concerning any persons who dance or perform live entertainment at the adult cabaret: the persons full name including all previously used legal names, home address, home telephone number, date of birth and any presently or previously used aliases.

(4) No dancer, live entertainer or performer shall be under 18 years old.

(5) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.

(6) No dancer or performer shall perform any dance or live entertainment closer than ten feet to any patron.

(7) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

(8) No patron shall pay or give any gratuity to any dancer or performer.

(9) No dancer or performer shall solicit any pay or gratuity from any patron.

(C) *License required.*

(1) No person shall own or operate an adult use establishment without having first secured a license as provided for in this section. Notwithstanding any other provision of this code to the contrary, the procedures set forth in this section establish the exclusive method for obtaining an adult establishment license.

(2) The application for an adult use establishment license shall be submitted on a form provided by the county and shall include:

(a) If the applicant is an individual, the name, residence, phone number and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers and birth dates of all those persons holding more than 5% of the issued and outstanding stock of the corporation;

(b) The name, address, phone number and birth date of the operator and manager of such operation, if different from the owners;

(c) The address and legal description of the premises where the adult establishment is to be located;

(d) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;

(e) The activities and types of business to be conducted;

(f) The hours of operation;

(g) The provisions made to restrict access by minors; and

(h) A building plan of the premises detailing all internal operations and activities.

(3) If an application form is not available from the county, on request at the time of applying, the applicant may provide the information in letter form so long as it is complete.

(D) *License fee.*

(1) An annual license fee for an adult establishment shall be set from time to time by resolution of the County Board.

Commencing with the enactment of this chapter section, the fee shall be as specified herein.

(2) Each application for a license shall be submitted to the County Sheriff, and payment made to the county. Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the county shall refund the license fee.

(3) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year; except that, if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(4) No part of the fee paid by any license shall be refunded; except that, pro rata portion of the fee shall be refunded in the following instances upon application to the County Zoning Administrator within 30 days before the expiration of the license:

- (a) Destruction or damage of the licensed premises by fire or other catastrophe;
- (b) The licensee's illness;
- (c) The licensee's death; or
- (d) A change in the legal status making unlawful for licensed business to continue.

(5) Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the County Board by the applicant(s) or licensee. If said changes take place during the investigation, said data shall be provided to the Sheriff's Department or the County Board in writing. Failure to report said changes by the applicant(s) or the licensee may result in a denial or revocation of a license.

(E) *Investigative fee.*

(1) Upon applying for the license, an investigative fee shall be required for each application submitted to the county. The investigative fee amount shall be set from time to time by resolution of the County Board. Commencing with the enactment of this chapter section, the fee shall be as specified herein.

(2) If it appears that the investigative costs will exceed the amount set forth herein, the Sheriff or the County Zoning Administrator shall notify the applicant and give the applicant an estimate of costs. The applicant shall either make an additional deposit equal to the difference or shall withdraw the application. If the additional deposit is not paid within 14 days, the application shall be deemed withdrawn.

(3) If the costs of administration, issuance and investigation are less than the additional deposit, the balance shall be refunded upon the issuance or denial of the license. No license shall be issued until the applicant has paid the entire cost of administration, including required license fees and investigative fees.

(F) *Granting of license.*

(1) The County Board, or such persons as they shall designate, shall complete their investigation within 45 days after the Board receives a complete application and all license and investigative fees.

(2) If the application is for a renewal, the applicant shall be allowed to continue business until the Board has determined to renew or refuse to renew a license.

(3) If after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this section, then the license shall be issued by the County Board within the requirements of M.S. § 15.99, as it may be amended from time to time.

(4) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the County Board. If the licensee is a partnership or a corporation, a change in the identity of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this section shall be required to obtain an annual license.

(G) *Persons ineligible for license.* No license shall be granted to or held by any person:

- (1) Under 21 years of age;
- (2) Who is overdue or whose spouse is overdue in their payment to any unit of government for taxes, fees, fines or penalties assessed against them or imposed upon them;
- (3) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses or adult establishments in any jurisdiction within the past five years;
- (4) Who has been convicted or whose spouse has been convicted of a misdemeanor under state law or local ordinance, or of violating any equivalent law of this state relating to sex offenses, obscenity offenses or adult establishments within the past three years;
- (5) Who is not the proprietor of the establishment for which the license is issued;

(6) Who is residing with a person who has been denied a license by the county or any other state municipal corporation to operate an adult use, or residing with a person whose license to operate an adult use has been suspended or revoked within the preceding 12 months; and/or

(7) Who has not paid the license and investigative fees required by this section.

(H) *Places ineligible for license.*

(1) No license shall be granted for adult uses on any premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this section, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.

(2) No license shall be granted for any adult use which is not in full compliance with all the provisions of this chapter, the Building Code, the Fire Code, the county's health regulations and all provisions of state and federal law.

(I) *Conditions of license.* Every license shall be granted subject to the following conditions.

(1) All the provisions of this section shall be followed, and all applicable sections of this chapter, the Building Code, the Fire Code, the county's health regulations and other specific provisions of county, state and federal law.

(2) No minor shall be permitted on the licensed premises.

(3) Any designated inspection officer of the county shall have the right to enter, inspect and search the premises of a licensee during business hours.

(4) Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions of order.

(5) No adult goods or material services shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.

(J) *Penalty.*

(1) Any person violating any provision of this section is guilty of a misdemeanor and is subject to all the applicable provisions of § 155.999 of this chapter.

(2) Any violation of this section shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the County Board proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Board shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within 30 days of the date of the notice.

(3) The County Board of Commissioners shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

(K) *Right of appeal.*

(1) In the event that the County Board determines to suspend, or revoke a license, such suspension or revocation shall not be effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the Board's action, then the suspension or revocation shall be stayed until the conclusion of such action.

(2) If the County Board determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the county acted properly, the licensee may continue in business until the conclusion of the action.

(3) If the County Board decides not to grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the county acted properly. The applicant shall not commence doing business unless the action is concluded in its favor.

(4) Additionally, any taxpayer or citizen may proceed with any action provided for in §155.999 of this chapter.

§ 155.999 PENALTY.

(A) *Violations.*

(1) In the event of a violation or a threatened violation of this chapter, the County Board, or any member thereof, in addition to other remedies, may request the County Attorney to institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations, or threatened violations.

(2) Any taxpayer or taxpayers of the county may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this chapter.

(3) Any person, firm, corporation or other entity who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine and/or by imprisonment as set forth in M.S. § 609.03, as it may be amended from time to time. Each day that a violation continues shall constitute a separate offense.

(4) Any person, firm, corporation or other entity who aids, abets, counsels or assists another in the commission of any of the acts prescribed in division (A)(3) above, whether acting as an employee, servant, agent or otherwise, shall be guilty of a misdemeanor. Any property owner who permits any person, firm, corporation or other entity to commit any of the acts prescribed in division (A)(3) above shall be guilty of a misdemeanor.

(5) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall investigate the situation and document the nature and extent of the violation of the official control. In the case of violations of the Floodplain Overlay District (§ 155.056 of this chapter), as soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(6) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted. If the construction or development is already completed, then the Zoning Administrator may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(7) It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure unless the use of the building or land conforms to the requirements of this chapter.

(8) All permits, variances and conditional use permits issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

(9) Applications for any permit may be denied by the Zoning Administrator if the land upon which the permit application is made is subject to any of the following conditions:

(a) A non-conforming sewage treatment or disposal system exists on the property; this requirement is mandated in shoreland areas;

(b) The property is part of a subdivision or conveyance which does not comply with the provisions of this chapter or Ch. 154 of this code of ordinances; or

(c) A nuisance, as specified within § 155.088 of this chapter, exists on the property.

(10) The Zoning Administrator shall provide the applicant with a written statement setting forth with reasons for said denial and the actions necessary to correct the problem. The applicant may appeal said denial to the Board of Adjustment.

(B) *Recording conveyances.*

(1) A copy of all instruments which convey real estate where the land lies within the jurisdiction of this chapter shall be submitted by the County Recorder to the Zoning Administrator for review after recording pursuant to M.S. § 394.37, subd. 1, as it may be amended from time to time. The following conveyances need not, however, be submitted.

(a) The re-conveyance of a lot of record, as defined herein.

(b) The conveyance of any tract which does not involve or result in the subdivision of any existing tract.

(2) The Zoning Administrator shall examine those instruments of conveyance submitted by the County Recorder to determine whether the conveyance complies with this chapter. If the conveyance does not comply with this chapter, the Zoning Administrator shall notify the parties to the conveyance of the violation or potential violation and may institute appropriate action to enforce compliance. Failure of the Zoning Administrator to provide such notice shall not be construed to indicate approval of any conveyance.

(C) *Application to county personnel.* The failure of any officer or employee of the county to perform any official duty imposed by this chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

CHAPTER 156: SOLID WASTE

Section

General Provisions

156.01 Recycling policy

156.02 Solid waste management service charge

- 156.03 On-site disposal
- 156.04 Construction debris; charge

Facilities and Haulers

- 156.15 Purpose and authority
- 156.16 Definitions
- 156.17 Licensing requirements
- 156.18 Operation requirements for licensed haulers
- 156.19 Tipping fees
- 156.20 Delivery of waste
- 156.21 Effective date

Collection, Transportation and Disposal

- 156.35 Applicability
 - 156.36 Definitions
 - 156.37 General conditions
 - 156.38 Variances
 - 156.39 Storage
 - 156.40 Collection and transportation
 - 156.41 Intermediate and final disposition
 - 156.42 Plan approval; permit issuance, denial and revocation
 - 156.43 Sanitary landfill
 - 156.44 Other methods of handling, processing and disposal
 - 156.45 Non-conforming sites and facilities
 - 156.46 Mixed municipal solid waste disposal fee
-
- 156.99 Penalty

GENERAL PROVISIONS

§ 156.01 RECYCLING POLICY.

(A) As a matter of policy, the county mandates source separation of recyclable materials by all county households. This policy is designed to fulfill the expectations and efficiency of the County Solid Waste Management Plan and requires total participation.

(B) Every person must have an opportunity to recycle and have local access to a recycling method. Materials to be recycled may include glass, newspaper, aluminum and other cans, and plastic. Corrugated cardboard is also included, as amended by Board action on 2-6-1990.

(C) Because of the diversity, each city and township will develop and submit its respective recycling plan by 4-1-1989, to be implemented by 7-1-1989. The Solid Waste Task Force will review plans and recommend to the County Board of Commissioners that start-up funds be sent to units that have approved plans.

(D) In a cooperative effort, the county will provide technical assistance through a recycling coordinator and financial support for initial costs. The start-up funding will be appropriated to each local government unit as follows.

(1) *Base amount.* Units with a majority of their population in the county will receive a base amount of \$1,000, plus \$1 per household. Cities whose boundaries extend beyond the county and do not have a majority of population in the county will have a base amount directly proportional to the percentage of homes within the county, plus \$1 per county household. Seasonal residents will be eligible for \$0.50 per household.

(2) *Performance incentive.* A quarterly subsidy can be earned by surpassing abatement participation goals. Abatement incentives will be determined in the near future.

(E) In order to assure quality permanent programs, and support of municipalities, a progressive set of minimum qualifications is established to qualify for on-going funding. Annual qualifying percentage of participating households will increase on each successive year of funding.

(Ord. passed 2-6-1990)

§ 156.02 SOLID WASTE MANAGEMENT SERVICE CHARGE.

(A) *Purpose.* The purpose of this section is to establish authority for the county to collect a solid waste management service charge to fund solid waste management programs implemented pursuant to state mandates. These solid waste management programs protect the environment and the health and welfare of the county's citizens, and they preserve the market value of property located within the

county. This section includes procedures for establishing a solid waste management service charge, the service charge payment method and penalties for non-compliance with provisions of this section. This section is adopted pursuant to M.S. § 400.08, as it may be amended from time to time.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **COUNTY.** Wright County, Minnesota.

(2) **COUNTY BOARD.** The Wright County Board of Commissioners.

(3) **DIVISION.** The Wright County Office of Planning and Zoning, Division of Environmental Health.

(4) **OWNER.** Includes, but is not limited to, an individual, business, public or private corporation, partnership, joint venture, association, trust, unincorporated association, government agency, or political subdivision thereof, any other legal entity, and any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, which has an ownership interest in real or personal property located in the county.

(5) **SOLID WASTE MANAGEMENT SERVICE CHARGE.** The charge payable by owners to the county for solid waste management services as established by the County Board of Commissioners.

(C) *General provisions.*

(1) *Administration.* This section shall be administered by the County Office of Planning and Zoning, Division of Environmental Health, and by the County Auditor/Treasurer.

(2) *Solid waste management service charge.* A solid waste management service charge shall be imposed for solid waste management services provided by the county. The owners of real property and certain personal property in the county shall pay the solid waste management service charge imposed in the manner set forth by the County Board.

(3) *Procedures for establishing the amount of solid waste management service charge.* The County Board shall establish the amount of the solid waste management service charge, by resolution, following a public hearing. The County Board may modify the amount of the solid waste management service charge by resolution, following a public hearing, and shall state the effective date for said modification.

(4) *Methods of collection of the solid waste management service charge.* The County Board shall impose the solid waste management service charge against all real property and certain personal property located within the county, unless otherwise exempted by action of the County Board, and bill the solid waste management service charge on the county property tax statements as a separate line item.

(D) *Solid waste management service charge; collection policy.*

(1) *Collection.* Owners of real property and personal property in the county shall pay a solid waste management service charge for solid waste management services in the amount established by the county. Such service charges shall be payable in conjunction with the payment of real property taxes.

(2) *Certification of service charges.* On or before November 30 each year, the County Board may certify to the County Auditor/Treasurer any solid waste management service charges to be collected in the following year, and a description of the properties against which the solid waste management service charges are to be assessed. The assessment shall then be noted on the property tax statement for the following year and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The solid waste management service charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the real property taxes under the general laws of the state.

(E) *Solid waste management service charge; appeals policy.*

(1) *Procedures.* An owner may file a written request for appeal of the solid waste management service charge with the Division. These written requests for appeal must be received or postmarked on or before May 15 of the year in which the solid waste management service charge is due. Upon receipt of a written request for an appeal, the Division will forward to the owner an appeal packet outlining the applicable requirements, including the appeal forms. The owner must pay the amount of the solid waste management service charge as it appears on the property tax statement pending disposition of the appeal.

(2) *Burden of proof.* The owner shall provide the Division with supporting facts and documentation on the appeal forms in sufficient detail to allow the Division to determine whether the facts warrant elimination or refund of the solid waste management service charge for a particular piece of property. These supporting facts and documentation must be received by the Division no later than July 1 of the year in which the request for appeal has been submitted. The burden of proof is on the owner to provide evidence demonstrating that the property qualifies for elimination or refund of the solid waste management service charge.

(3) *Criteria for elimination or refund.* The solid waste management service charge may be eliminated or refunded under

the following circumstances:

(a) County administrative or clerical errors;

(b) The structure on the property was uninhabitable, unuseable or was destroyed or demolished as of January 2 of the year in which the solid waste management service charge is due and it is likely that this condition will continue for the entire year; and

(c) The property neither generates any solid waste, nor receives any direct benefit from the county's solid waste management programs, because of the nature of the improvement located on the property.

(4) *Review.* In the event that an appeal under this section is denied by the Division, the owner may request that the decision be reviewed by the County Board or its designated committee. This request for review must be received within 30 days of the date of the notice of denial.

(F) *Violations and penalties.*

(1) *Venue and prosecution.* The County Attorney's office may pursue legal action against an owner for violations of any provision of this section. Such prosecution shall be venued in the county.

(2) *Costs and assessments.*

(a) The county may recover costs, including attorneys' fees, staff and other related costs, incurred to enforce compliance with the provisions of this section.

(b) At the discretion of the County Board, the costs may be certified to the County Auditor/Treasurer as a special tax against the real or personal property owned by the owner.

(G) *Effective date.* This section shall be in full force and effect upon passage by the County Board of Commissioners.

(Ord. passed - -1994)

§ 156.03 ON-SITE DISPOSAL.

(A) The County Board of Commissioners hereby determines that regularly scheduled pick-up of solid waste is reasonably available throughout the county.

(B) Allowing for the on-site disposal of solid waste is not applicable in the county.

(Res. 93-58, passed 10-5-1993)

§ 156.04 CONSTRUCTION DEBRIS; CHARGE.

(A) The county shall collect a surcharge of \$0.50 per cubic yard from operators of construction debris disposal facilities located in the county.

(B) Any amounts collected pursuant to this section shall be used for the purposes set out in M.S. § 115A.919, as it may be amended from time to time.

(C) Collection of the surcharge established under this section shall be pursuant to §156.46 of this chapter.

(D) The effective date of this fee on construction debris was 8-2-2004.

(Res. 04-31, passed 6-1-2004)

FACILITIES AND HAULERS

§ 156.15 PURPOSE AND AUTHORITY.

(A) *Authority.* This subchapter is adopted pursuant to the authorization contained in M.S. §§ 145A.05 and 375.51, as they may be amended from time to time, and M.S. Ch. 400, as it may be amended from time to time.

(B) *Purpose.* The purpose of this subchapter is: to add and modify definitions; to set out the procedures for establishing and modifying the tipping fee and other charges at the county solid waste composting facility; to establish hauler licensing and operation requirements; and to establish additional regulations necessary for the management of solid waste in the county.

(Res. 96-29, passed 5-7-1996)

§ 156.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ACCEPTABLE WASTE.** Garbage, refuse, rubbish and other mixed municipal solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection and which is not otherwise defined herein as "unacceptable waste".

(B) **COLLECTION.** The gathering or aggregating of solid waste from public or private places for transportation to a site or facility.

- (C) **COUNTY.** Wright County, Minnesota.
- (D) **DIVISION.** The Wright County Office of Planning and Zoning, Division of Environmental Health.
- (E) **EFFECTIVE DATE.** The date, as established by resolution of the County Board, upon which this subchapter became effective.
- (F) **FACILITY.** The county's solid waste composting facility.
- (G) **GENERATE.** The act or process of producing waste, including the production or aggregation of waste occurring at an intermediate disposal facility.
- (H) **GENERATOR.** Any person or entity generating waste including, but not limited to, businesses, local governments and other organizations.
- (I) **HAULER.** Any person, other than an individual resident hauling his or her own household waste, who collects or transports any solid waste and must be licensed under this subchapter.
- (J) **HOLIDAYS.** Those holidays as specified by the County Board resolutions and/or by operating agreement for the facility.
- (K) **HOUSEHOLD HAZARDOUS WASTE.** Waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under federal, state or local law, but does not include waste from commercial activities that is generated, stored or present in a household.
- (L) **MAJOR APPLIANCES.** Clothes washers and dryers, dishwashers, hot water heaters, residential furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators and freezers.
- (M) **MIXED MUNICIPAL SOLID WASTE (MSW).** Waste as defined in M.S. § 115A.03, Subd. 21, as it may be amended from time to time, including garbage, refuse and other solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials collected, processed and disposed of as separate waste streams.
- (N) **RESOURCE RECOVERY.** The reclamation for sale, use or reuse of materials, substances, energy or other products contained within or derived from waste.
- (O) **RESOURCE RECOVERY FACILITY.** A waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.
- (P) **SOLID WASTE.** Waste as defined in M.S. § 116.06, Subd. 22, as it may be amended from time to time, including garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- (Q) **TIPPING FEE.** The fees charged to haulers or other persons for waste delivered to the facility.
- (R) **TRANSPORTATION.** The conveying of solid waste from one place to another.
- (S) **UNACCEPTABLE WASTE.** Explosives, biomedical, pathological and biological wastes; radioactive materials; ashes, foundry sand; sanitary sewage and other highly diluted, water-carried materials or substances; sewage sludge and septic and cesspool pumpouts; human remains; major appliances; motor vehicles including such major motor vehicle parts as transmissions, rear ends, springs and fenders; tires; agricultural and farm machinery and equipment; liquid wastes; construction and/or demolition debris; and hazardous waste of any kind or nature or other materials that would be likely to pose a threat to health or public safety, cause injury or damage or adversely affect the operation facility, or significantly affect the characteristics of the compost product. Household hazardous waste is not necessarily included in this definition, but rather as defined above.
- (T) **YARD WASTE.** The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

(Res. 96-29, passed 5-7-1996; Ord. 16-2, passed ---)

§ 156.17 LICENSING REQUIREMENTS.

(A) Unless otherwise provided by this subchapter or the County Board, no person shall use or allow property under his or her control to be used for intermediate or final processing, incineration or disposal of any solid waste, except at a site or facility for which a license has been issued by the county before operation commences. A license shall not be required for any single household yard waste composting activity, but such site shall be operated and maintained in a nuisance free and aesthetic manner consistent with the intent of this subchapter.

(B) Any site or facility to be used for any method of solid waste management, including yard waste composting, not otherwise provided for in this subchapter must be licensed by the county before operation may be commenced.

(C) No hauler shall collect or transport mixed MSW generated in the county without first obtaining a license from the Division for such collection or transportation.

(D) Unless otherwise provided by the County Board, each license granted pursuant to the provisions of this subchapter shall be for the period of January 1 to December 31 of each year unless revoked or suspended.

(E) An application for a hauler's license shall comply with the following.

(1) Application for a license shall be made to the Division and shall be on forms available from the Division. The application shall not be considered complete until all required fees and materials are submitted to the Division.

(2) Application for a license shall contain at least the following information: name, address, telephone number of the licensee; the licensee's Social Security number and/or state business identification number; state and federal tax ID number; business name, address and telephone number; name, address and telephone number of the responsible contact person; corporate or partnership information if applicable; list and description of all vehicles, conveyances and other equipment (including at least the motor vehicle license, make, model, year and capacity of each vehicle) used for mixed MSW storage, collection or transportation within the county; types (i.e., residential, commercial, industrial) and number of accounts receiving service within each city or township in the county; quantity of waste expected to be collected or transported during the license year; and such other information as the Division may request for the purpose of administering the provisions of this subchapter.

(3) Application for a license shall contain information regarding the rates that the hauler charges its customers, including information indicating compliance with § 156.18 of this chapter, requiring volume- or weight-based pricing.

(4) The application for a hauler's license shall be accompanied by payment of a fee of \$25 per packer truck or other collection vehicle to be used for the transportation of mixed MSW.

(Res. 96-29, passed 5-7-1996)

§ 156.18 OPERATION REQUIREMENTS FOR LICENSED HAULERS.

(A) *License display.* Each vehicle or other conveyance used by a hauler for the collection or transportation of mixed MSW generated within the county shall be identified by a license decal issued by the Division for that vehicle or conveyance for the current license year. The hauler must affix the decal in a conspicuous place on the right side of the cab of the vehicle or conveyance for which it was issued as directed by the Division. The hauler must maintain the license decal so that it is readily visible and legible at all times. If a licensed hauler finds it necessary to use a vehicle other than one included in its original or amended license application, the hauler may obtain and display, in place of a license decal, a temporary vehicle permit issued by the Division for periods of up to 15 calendar days per permit.

(B) *Identification.* The business name and telephone number of the hauler shall be printed or painted in legible characters on both sides of all vehicles, containers and conveyances used by the hauler to store, collect or transport mixed MSW generated within the county. Such characters shall be at least three inches in height for all vehicles and conveyances and at least two inches in height for all containers. This provision shall not apply to containers owned and maintained by a waste generator. Variances from this identification requirement must be approved by the Division.

(C) *Insurance.* Each hauler shall maintain insurance as may be required by law and shall provide the Division with a copy of its current insurance certificate evidencing coverage.

(D) *Equipment.* All vehicles, conveyances and other equipment used by any hauler for the collection of mixed MSW within the county shall be enclosed or securely covered and shall not leak. All haulers shall maintain their equipment in good repair, free of nuisances and in safe operating condition. Each vehicle used for the collection or transportation of mixed MSW in the county shall, when requested by the Division, be subject to inspection.

(E) *Clean up.* Any hauler responsible for littering roadways or other property with any waste shall promptly recover and remove such wastes. If the hauler fails to promptly recover and remove such waste, the hauler shall reimburse the county for the entire costs of the removal and disposal of such waste. Haulers must charge residential customers for collection services on the basis of the volume or weight of the mixed MSW collected. Haulers shall not impose a greater charge on residents who recycle than on residents who do not recycle.

(Res. 96-29, passed 5-7-1996)

§ 156.19 TIPPING FEES.

(A) *Payment.*

(1) All haulers, private citizens and other entities must pay a tipping fee to the facility operator for waste delivered to the facility. Tipping fees shall be billed to haulers on a monthly basis and paid according to a schedule established by the County Board.

(2) Private citizens and other entities shall pay the tipping fee upon delivery of the waste unless other arrangements are made with the facility operator.

(B) *Establishment of fees.* The County Board shall, after a public hearing, establish and modify the tipping fee by resolution.

The initial tipping fee and any increased tipping fees shall be effective upon 60 days advance notice to haulers. Any decreased tipping fees shall be effective upon 15 days' advance notice to the haulers.

(C) *Factors to be considered by the County Board.* The county shall set the tipping fee and any amendments thereto at a reasonable amount, taking into account any of the following factors:

- (1) The costs to the county for waste management services, including those provided by the operator of the facility;
- (2) Special fees needed to cover the costs of handling and/or disposing of special waste and unacceptable waste;
- (3) The cost of resource recovery and recycling activities, waste education activities, licensing and enforcement activities, and handling and disposal of household hazardous waste; and
- (4) Any other factors which the county may determine to have an impact on the reasonableness of the tipping fee at the facility.

(Res. 96-29, passed 5-7-1996)

§ 156.20 DELIVERY OF WASTE.

(A) No hauler or other person shall deposit unacceptable waste on the tipping floor or any other area of the facility unless specifically approved of by the county and the facility operator. The facility operator may reject any load which he has reasonable basis to believe contains significant quantities of unacceptable waste by refusing to allow disposal of the load at the facility. At the time of such rejection, the facility operator will provide the vehicle operator with a certificate of rejection stating the reason or reasons therefor.

(B) Rejected waste must be disposed of in accordance with all applicable federal, state and local laws, regulations and ordinances. A certificate of rejection must be presented to the operator of any waste facility used for disposal of rejected waste. The hauler or other person responsible for the rejected waste shall submit to the Division, within five working days of waste rejection, a certification acceptable to the Division of proper disposal of the rejected waste.

(C) Any hauler or other person who deposits significant quantities of unacceptable waste at the facility must recover all such unacceptable waste immediately upon demand of the facility operator. The costs of handling and disposing of such unacceptable waste shall be the responsibility of the hauler or other person. Such unacceptable waste shall be considered rejected waste, and must be disposed of in accordance with all applicable federal, state and local laws, regulations and ordinances.

(D) Any hauler or other person may contest a wrongful rejection of waste by delivering a written notice of its claim of wrongful rejection to the Division. Such written notice shall state the date of waste rejection and the grounds for the claim that the facility operator wrongfully refused to accept waste.

(E) Each hauler or other persons shall deliver all acceptable waste in accordance with the following terms and conditions.

(1) Each hauler or other person delivering waste pursuant to this subchapter shall comply with all rules for use of the facility that have been approved by the county and are posted at the facility or otherwise made available.

(2) Each hauler shall, upon delivery of any waste to the facility, give the facility operator a load report, on a form acceptable to the Division for each load which contains at least the following information: hauler name, address, telephone number, hauler identification number; source of waste (county's city or township); type of waste (i.e., residential or non-residential); percent of waste by city or township and type of generator; date of delivery; and signature of hauler or hauler's agent delivering the load.

(F) No hauler or other person shall mix acceptable waste with unacceptable waste.

(G) Mixed municipal solid waste may be delivered to the facility between 7:00 a.m. and 5:00 p.m., Monday through Friday, and 7:00 a.m. to 1:00 p.m. on Saturday, excluding holidays or at such other

times as the county may determine. The facility will not be required to accept waste delivered at any times other than specified herein.

(Res. 96-29, passed 5-7-1996)

§ 156.21 EFFECTIVE DATE.

This subchapter became effective immediately upon passage by the County Board of Commissioners and publication according to law.

(Res. 96-29, passed 5-7-1996)

COLLECTION, TRANSPORTATION AND DISPOSAL

§ 156.35 APPLICABILITY.

These are regulations and standards the provisions of which govern the storage, collection, transportation, treatment, utilization, processing, transfer, intermediate disposal and final disposal of solid waste by any persons and the issuing of permits for the construction and operation of solid waste disposal sites and facilities for the protection of the environment in keeping with M.S. Ch. 115 and 116, as they may be amended from time to time, and 1969 Laws, Ch. 847, 931 and 1046.

(Ord. passed 7-7-1970)

§ 156.36 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) **AGENCY.** The Minnesota Pollution Control Agency, its agent or representative.
- (B) **FINAL SOLID WASTE DISPOSAL.** The site, facility, operating procedures and maintenance thereof for the complete and ultimate disposal of solid waste by the sanitary land fill method.
- (C) **FLOODPLAIN.** As defined in Laws 1969, Ch. 590, codified as M.S. §§ 103F.101 to 103F.165, as it may be amended from time to time.
- (D) **GARBAGE.** Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
- (E) **INTERMEDIATE SOLID WASTE DISPOSAL.** The site, facility, operating procedures and maintenance thereof, for the preliminary or incomplete disposal of solid waste including, but not limited to, transfer station, open burning, incomplete land disposal, incineration, composting, reduction, shredding and compression.
- (F) **LAND POLLUTION.** The presence in or on the land of any solid waste in such quantity, of such nature and duration, and under such condition as would effect injuriously any waters of the state, create air contaminants or cause air pollution.
- (G) **MUNICIPALITY.** A city, village, borough, county, town, sanitary district or other governmental subdivision or public corporation, or agency created by the legislature.
- (H) **PERSON.** Any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity.
- (I) **OPEN BURNING.** Any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct or chimney.
- (J) **REFUSE.** Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and market and industrial solid wastes, and including sewage treatment wastes, which are in dry form.
- (K) **REFUSE COLLECTION SERVICE.** A public or private operation engaged in solid waste collection and solid waste transportation.
- (L) **REGIONAL FLOOD.** As defined in Laws 1969, Ch. 590, codified as M.S. §§ 103F.101 through 103F.165, as it may be amended from time to time.
- (M) **RUBBISH.** Non-putrescible solid wastes, including ashes, consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.
- (N) **SANITARY LANDFILL.** 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 areas, 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 required by the agency or county.
- (O) **SHORELAND.** As defined in Laws 1969, Ch. 777, codified as M.S. § 103F.205, as it may be amended from time to time.
- (P) **SOLID WASTE.** Garbage, refuse and other discarded solid materials, except animal waste 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, solids or dissolved material 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.
- (Q) **SOLID WASTE COLLECTION.** The gathering of solid waste from public or private places.
- (R) **SOLID WASTE MANAGEMENT SYSTEM.** A total concept for the storage, collection, transportation and disposal of solid waste.
- (S) **SOLID WASTE STORAGE.** The holding of solid waste near the point of generation.
- (T) **SOLID WASTE TRANSPORTATION.** The conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor or other means.
- (U) **TOXIC AND HAZARDOUS WASTES.** 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.
- (V) **TRANSFER STATION.** An intermediate solid waste disposal facility for transferring loads of solid waste to a

transportation unit having a larger capacity. There may be volume reduction at the transfer station. A **TRANSFER STATION** may be fixed or mobile.

(Ord. passed 7-7-1970)

§ 156.37 GENERAL CONDITIONS.

All solid waste shall be stored, collected, transferred, transported, utilized, processed and disposed of or reclaimed in a manner consistent with requirements of these regulations. The county is responsible for enforcement of these regulations and encourages cooperation of municipalities which may adopt these regulations for use in local laws, ordinances or regulations.

(Ord. passed 7-7-1970) Penalty, see § 156.99

§ 156.38 VARIANCES.

Whereupon written application of the responsible person or persons, the county finds that by reason of exceptional circumstances strict conformity with any provisions of the regulations contained herein would cause undue hardships, would be unreasonable, impractical or not feasible under the circumstances, the county may permit a variance from these regulations upon such conditions and within such time limitation as it may prescribe for prevention, control or abatement of air, land or water pollution in harmony with the intent of the state and any applicable federal laws.

(Ord. passed 7-7-1970)

§ 156.39 STORAGE.

(A) The owner and occupant of any premises, business establishment or industry shall be responsible for the satisfactory storage of all solid waste accumulated at that premises, business establishment or industry.

(B) Garbage and similar putrescible waste shall be stored in:

(1) Durable, rust resistant, non-absorbent, water-tight, rodent-proof and easily cleanable containers, with close fitting, fly-tight covers and having adequate handles or bails to facilitate handling; or

(2) Other types of containers acceptable to the municipality and conforming to the intent of this regulation.

(C) The size and allowable weight of the containers may be determined by the refuse collection service subject to requirements of the municipality.

(D) Refuse shall be stored in durable containers or as otherwise provided in this regulation. Where garbage and similar putrescible wastes are stored in combination with non-putrescible refuse, containers for the storage of the mixture shall meet the requirements for garbage containers.

(E) Toxic or hazardous wastes shall be stored in the proper containers which are adequately labeled in a safe location and in compliance with the regulations of federal, state and local governments, and their regulatory agencies.

(F) All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance or menace to public health. Containers that are broken or otherwise fail to meet requirements of this regulation shall be replaced with acceptable containers.

(G) Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a pollution and nuisance free manner and in compliance with the regulations of federal, state and local governments, and their regulatory agencies.

(Ord. passed 7-7-1970) Penalty, see § 156.99

§ 156.40 COLLECTION AND TRANSPORTATION.

(A) The owner and occupant of any premises, business establishment or industry and/or the refuse collection service shall be responsible for the satisfactory collection and transportation of all solid waste accumulated at a premise, business establishment or industry to a solid waste disposal site or facility, for which a permit has been issued by the agency and county unless otherwise provided in these regulations.

(B) Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes, or refuse containing such materials, shall be covered, leak-proof, durable and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution or insect breeding, and shall be maintained in good repair.

(C) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered when necessary to prevent blowing of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

(D) Vehicles and containers used for the collection and transportation of toxic or hazardous wastes shall be durable, enclosed and leak-proof and shall be constructed, loaded, moved and unloaded in a safe manner and in compliance with the regulations of federal, state and local governments and their regulatory agencies.

(Ord. passed 7-7-1970) Penalty, see § 156.99

§ 156.41 INTERMEDIATE AND FINAL DISPOSITION.

(A) Open burning is prohibited at all intermediate and final solid waste disposal sites, except as shall be allowed by any regulations of the agency or county now or hereafter adopted.

(B) Solid waste shall not be deposited at any intermediate or final solid waste disposal site in such a manner that material or leachings therefrom may cause pollution of ground or surface waters.

(C) No animal carcasses shall be deposited in any sanitary land fill within the county.

(D) A person shall make an intermediate or final disposal of any solid waste, only at a site or facility for which a permit has been issued by the agency and county unless otherwise provided by these regulations. Permits shall not be required for sites used for the disposal of solid waste from only a single family or household, a member of which is the owner, occupant or lessee of the property, under these regulations, but these shall be operated and maintained in a nuisance-free pollution-free and aesthetic manner consistent with the intent of these regulations.

(E) Disposal of toxic and hazardous wastes shall be in a safe and pollution-free manner and in compliance with the regulations of federal, state and local governments and their regulatory agencies.

(Ord. passed 7-7-1970) Penalty, see § 156.99

§ 156.42 PLAN APPROVAL; PERMIT ISSUANCE, DENIAL AND REVOCATION.

(A) It shall be unlawful for any person to establish, maintain, conduct or operate an intermediate or final solid waste disposal site or facility, except as provided in these regulations without first obtaining a permit from the agency and county.

(B) Although a permit shall be granted the same shall become effective only if the location of the sites or facility shall conform to all applicable federal, state and local laws, ordinances and regulations.

(C) Each permit application shall be accompanied by plans as described in these regulations and a plan of operation indicating procedures which will be followed to fulfill requirements of these regulations.

(D) Plans and specifications shall be approved and a permit issued when the Director of the agency and county believes that they are in accordance with the requirements as set forth in these regulations.

(E) Filing of a performance bond with sufficient sureties in the penal sum of \$10,000 and conditioned upon the applicant's full compliance with all regulations set forth in this subchapter, said bond to be subject to the approval of the County Board and the County Attorney.

(F) Payment of a permit fee in the amount of \$100. Payment of the permit fee may be waived by the County Board if the applicant is a governmental agency.

(G) No person shall haul refuse for hire within the county without a permit issued by the County Board, upon compliance with the following requirements:

(1) Filing of an application for a refuse hauling permit, upon a form provided by the County Board;

(2) Filing of a performance bond with sufficient sureties in the penal sum of \$3,000, and conditioned upon the applicant's full compliance with all regulations set forth in this subchapter, said bond to be subject to the approval of the County Board and the County Attorney;

(3) Submission of specifications of all of the vehicles to be used for refuse hauling. Such vehicles shall have leak-proof bodies of easily cleanable construction, completely covered with metal or heavy canvas, and shall be subject to approval and periodic inspection by the County Board;

(4) Submission of a description of the route to be followed by all refuse hauling vehicles between the area of collection and the refuse disposal facility, which route shall be subject, to approval by the County Board;

(5) Payment of a permit fee in the amount of \$10 per vehicle. Payment of the permit fee may be waived by the County Board if the applicant is a governmental agency; and

(6) Permits issued under this section shall expire one year from the date of issue unless sooner revoked by the County Board. Renewal permits may be issued in the discretion of the County Board upon compliance with the requirements. A permit may be revoked by the County Board at any time for failure of the permittee to comply with any provisions of this subchapter; provided, however, that, before such a revocation shall become effective, the permittee shall be entitled to a hearing before the County Board upon the proposed revocation and the reasons therefor, not less than five days after notice of such hearing and its purpose shall have been mailed to him or her at the address shown in the application on file with the County Board.

(H) When a permit is denied, applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the applicant's right to an appearance before the agency or County Board

or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

(I) Permits may be revoked for violation of these regulations.

(Ord. passed 7-7-1970) Penalty, see § 156.99

§ 156.43 SANITARY LANDFILL.

(A) The sanitary landfill method shall be used for all final disposal of solid waste.

(B) The fill and trench areas of sanitary landfill sites are prohibited within the following areas:

(1) Within shoreland;

(2) Within 1,000 feet, at the time of commencement of construction of the sanitary landfill, of the nearest edge of the right-of-way of any state, federal or interstate highway or of the boundary of a public park or of an occupied dwelling. Permission may be granted under this division (B)(2), without these distance requirements, for a site which is screened by natural objects, plantings, fences or other appropriate means so as not to be readily visible from the highway or park; and/or

(3) Within one mile of a municipal well or one mile of a municipal water intake.

(C) Any person who maintains or operates a sanitary landfill site, or permits the use of property for such, shall maintain and operate the site in conformance with the following practices unless otherwise allowed by the agency or county in issuing the required permit.

(1) Open burning is prohibited.

(2) Solid waste shall not be deposited in such a manner that material or leachings therefrom may cause pollution of ground or surface waters.

(3) Dumping of solid waste shall be confined to as small an area as practicable and surrounded with appropriate facilities to confine possible wind-blown material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the area by the owner or operator.

(4) Solid waste shall be compacted as densely as practicable and covered after each day of operation, with a compacted layer of at least six inches of suitable cover.

(5) Surface water drainage shall be diverted around the landfill operation areas.

(6) A minimum separating distance of 20 feet shall be maintained between the disposal operation and the adjacent property line.

(7) Effective means shall be taken to control flies, rodents and other insects or vermin.

(8) The approach road to the disposal site shall be of all-weather construction and maintained in good condition.

(9) Equipment shall be provided to control accidental fires and arrangements made with the local fire protection agency to immediately acquire their services when needed.

(10) Adequate communication facilities shall be provided for emergency purposes.

(11) Sanitary facilities and shelter shall be available for site personnel.

(12) Salvaging is prohibited.

(13) An attendant shall be on duty at the sites at all times while it is open for public use.

(14) The site shall be fenced and a gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.

(15) A permanent sign, identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use, the penalty for non-conforming dumping and other pertinent information, shall be posted at the site entrance.

(D) Within one month after final termination of a site, or a major part thereof, the area shall be covered with at least two feet of compacted earth material adequately graded to allow surface water runoff.

(E) The finished surface of the filled area shall be covered with adequate top soil and seeded with native grasses or other suitable vegetation immediately upon completion, or immediately in the spring on areas terminating during the winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

(F) Prior to completion of a sanitary landfill site, the agency and county shall be notified in order that a site investigation may be conducted by the agency before earth moving equipment is removed from the property.

(G) Toxic and hazardous wastes shall be disposed of in a sanitary landfill site in accordance with the following procedures, or as otherwise designated by the agency and county.

(1) A separate area shall be designated for the disposal of these materials. A permanent sign shall be posted in the area, indicating its designated use and precautions which shall be taken during disposal.

(2) Disposal shall take place at least ten feet above the ground water level; or at least ten feet above limestone, quartzite or other granite-type bedrock; and sandstone. The toxic and hazardous disposal areas to be used shall be sealed prior to disposal.

(3) When possible, all toxic and hazardous wastes shall be neutralized or otherwise made harmless prior to disposal.

(4) Upon disposal of toxic and hazardous wastes, containers and any materials washed from the vehicles transporting the materials, shall be immediately covered with at least 18 inches of earth.

(5) The site location for toxic and hazardous wastes disposal shall be field identified and registered with the County Register of Deeds.

(6) A record shall be kept of the quantity and type of toxic and hazardous materials accepted and disposed of. Such records shall be reported to the agency and county.

(7) In the discretion of the agency and county, special conditions may be attached to the disposal of toxic and hazardous wastes.

(H) A sanitary landfill shall not be established until a permit has been issued by the agency and county. A minimum of three sets of plans folded to eight and one-half-inch by 11-inch size, and related information, prepared by a registered engineer of the state shall be submitted to the agency and county. The submitted material shall include the following:

(1) A map or aerial photograph of the area showing land use and zoning within one-fourth mile of the solid waste disposal site. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcrop-pings, roads and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells should be identified on the map or aerial photograph, a U.S.G.S. Bench Mark base should be indicated, and a north arrow drawn. A location insert map should be included;

(2) A plot plan of the site and immediately adjacent area showing dimensions, location of soil borings, present and planned pertinent features including, but not limited to, roads, fencing, and cover stockpiles. The plan of development including any excavation, trenching and fill should be shown progressively or on separate sheets showing progressively with time the original and proposed elevation of excavation, trenching and fill. The scale of the plot plan should not be greater than 200 feet per inch;

(3) An ultimate land use plan, including intermediate stages, identifying the total and complete land use. The scale of the ultimate land use plan should not be greater than 200 feet per inch; and

(4) A report shall accompany the plans indicating:

(a) Population and areas expected to be served by the proposed site;

(b) Anticipated type, quantity and source of material to be disposed of at the site;

(c) Geological formations and ground water elevations to a depth of at least ten feet below proposed excavation and lowest elevation of the site, including the high water table. Such data shall be obtained by soil borings or other appropriate means;

(d) Source and characteristic of cover material and method of protecting cover material for winter operation;

(e) Type and amount of equipment to be used at the site for excavating, earth moving, spreading, compaction and other needs;

(f) Area of site in acres;

(g) Owner of site;

(h) Persons responsible for actual operation and maintenance of the site and intended operating procedures;

(i) Information relating to § 156.42 of this chapter; and

(j) Information relating to the items in divisions (B), (C), (D), (E), (F), (G) and (I) of this section.

(I) Non-putrescible materials and certain non-combustible materials such as brick, stone, sand and similar materials may, under certain conditions, be disposed of as a base in surface waters at sanitary landfill sites if such disposition will result in a nuisance-free operation and no pollution to such waters. Any such proposed disposition must be detailed in the permit application.

(J) Reports describing the types and quantities of waste disposed of at this site shall be submitted to the agency and county every month, together with other information on the operation of the sanitary landfill.

(Ord. passed 7-7-1970)

§ 156.44 OTHER METHODS OF HANDLING, PROCESSING AND DISPOSAL.

Processing and disposal before a site or facility for any method of solid waste handling processing and disposal, including transfer stations, not otherwise provided for in these regulations is practiced or placed into operation, three sets of complete plans, specifications, design data, ultimate land use plan and proposed operating procedures shall be submitted to the agency and county for review and permit issuance. All such information shall be prepared and submitted by a registered professional engineer of the state.

(Ord. passed 7-7-1970)

§ 156.45 NON-CONFORMING SITES AND FACILITIES.

Modification of existing sites and facilities, and of operating procedures to conform to the requirements of these regulations shall be accomplished. When the degree of necessary improvement is of such extent that immediate compliance cannot be accomplished, special consideration may be given by the agency and county. In such event, the owner of the non-conforming

site or facility shall, not later than six months after the effective date of these regulations, submit to the agency and county a report setting forth a program and plan for compliance with these regulations. Included with this report shall be a time schedule for submission of plans and specifications and a time schedule requiring commencement and completion of construction of necessary operations or improvements. In any event, such construction shall be completed by not later than 7-1-1972.

(Ord. passed 7-7-1970)

§ 156.46 MIXED MUNICIPAL SOLID WASTE DISPOSAL FEE.

(A) The terms defined in M.S. § 115A.03, as it may be amended from time to time, are adopted by reference and incorporated herein. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **CONSTRUCTION DEBRIS DISPOSAL FACILITY.** A waste facility used for the disposal of construction debris.

(2) **CUBIC YARD.** When converted to weight, means the following:

(a) A "cubic yard" of construction debris shall be deemed to weigh 600 pounds; and

(b) A "cubic yard" of mixed municipal solid waste shall be deemed to weigh 600 pounds.

(3) **MIXED MUNICIPAL SOLID WASTE DISPOSAL FACILITY.** A waste facility used for the disposal of mixed municipal solid waste.

(4) **OPERATOR.** The person or entity responsible for the disposal activities at a mixed municipal solid waste or construction debris disposal facility that has been permitted by the state's Pollution Control Agency.

(5) **RESPONSE.** The meaning given it in M.S. § 115B.02, subd. 18, as it may be amended from time to time.

(B) A fee is hereby imposed on operators of facilities for mixed municipal solid waste or construction debris located within the county. Said fee shall be collected pursuant to the authority in M.S. § 115A.919, as it may be amended from time to time, the provisions of which are adopted by reference and incorporated herein. The fee shall be set by resolution of the County Board, with the fee as set to become effective 60 days from the date of the resolution. The revenue from the fees shall be credited to a dedicated fund to be used only for those purposes set forth in M.S. § 115A.919, as it may be amended from time to time.

(C) A facility that measures the volume of the waste that it accepts must pay the fee per cubic yard of waste accepted at the entrance of the facility.

(D) A facility that does not measure the volume of the waste that it accepts, but that measures the weight of the waste that it accepts, must pay the fee per cubic yard based on the equivalent cubic yards of waste accepted at the entrance of the facility, as provided in division (C) above.

(E) The operator or owner of a mixed municipal solid waste or construction debris disposal facility shall provide the necessary information to the county required by this section.

(F) On or before the twentieth day of each month, each operator shall pay the fees due under this section for the previous month, using a form provided by the County Auditor/Treasurer.

(G) The county or any member, employee or agent thereof authorized by the county, upon presentation of credentials, may:

(1) Examine and copy any books, papers, records, memoranda or data of any operator or any other person or entity who has a duty to provide information to the county under this section; and

(2) Enter upon any property, public or private, for the purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information, conducting surveys or investigations and taking response action.

(H) (1) When the county incurs expenses for response actions at a facility, the county is subrogated to any right of action which the operator or owner of the facility may have against any other person for the recovery of the expenses. The County Attorney may bring an action to recover amounts spent by the county under this section from persons who may be liable for them.

(2) Amounts recovered, including money paid under any agreement, stipulation or settlement must be deposited in the County Solid Waste Disposal Fund.

(Ord. 85-1, passed 2-19-1985; Ord. 04-03, passed 6-1-2004)

§ 156.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99 of this code of ordinances.

(Ord. passed 7-7-1970; Res. 96-29, passed 5-7-1996; Ord. 16-2, passed ---)

Section

- 157.01 Title
- 157.02 Intent and purpose
- 157.03 Definitions
- 157.04 Point of sale form for septic certification; exemptions; closing or property transfers
- 157.05 Escrow accounts standard for non-compliant septic systems
- 157.06 Transfer of property prohibited; enforcement
- 157.07 Effective date

- 157.99 Penalty

§ 157.01 TITLE.

This chapter shall be known, cited and referred to as the "Wright County Point of Sale Septic System Certification Ordinance" (hereinafter, "WCPOS" or "this chapter").

(Ord. 11-02, passed 8-9-2011)

§ 157.02 INTENT AND PURPOSE.

(A) This chapter is enacted under the general powers delegated to counties by the state and pursuant to M.S. Ch. 103F, 103G, 115 and 116, as they may be amended from time to time, and all enabling state rules based thereon.

(B) It is the intent and purpose of this chapter to:

- (1) Regulate on-site subsurface sewage treatment systems (hereinafter septic systems) throughout the county;
- (2) Assure septic systems are regularly up-graded to meet with the minimum state, county and local governing unit (hereinafter LGU) treatment standards, and thereby to protect the public health, safety, comfort, convenience and general welfare of the county community; and
- (3) To conserve the quality of the natural environment.

(Ord. 11-02, passed 8-9-2011)

§ 157.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **BUYER.** A person, group of persons, corporation or other entity obtaining property from a seller by warranty deed, quit claim deed, probate deed, contract for deed, trustee deed or through an equivalent instrument of conveyance. The **BUYER** may also be referred to as the **GRANTEE**.

(B) **CERTIFICATE OF COMPLIANCE (EXISTING SYSTEMS).** A document properly executed on a state prepared form by an authorized sewer inspector, indicating that the septic system is compliant with current standards. The **CERTIFICATE OF COMPLIANCE** shall be valid for a period of three years. During that three-year time, no new **CERTIFICATE OF COMPLIANCE** need be obtained by any buyer or seller unless there is evidence of non-compliance. Any changes in the three-year time line, as made by state statute or state rule, are incorporated by reference herewith.

(C) **CERTIFICATE OF COMPLIANCE (NEW CONSTRUCTION OR REPLACEMENT).** A county form or a form used by a municipality located in the county which is executed by an authorized sewer inspector. This is typically a final inspection form and it shall indicate that the septic system is compliant with current standards by passing the final installation inspection. It shall be used for situations involving a new sewer on a new building site or a new sewer on a pre-existing site. Said certification is valid for a period of five years. During that five year time, no new **CERTIFICATE OF COMPLIANCE** need be obtained by any buyer or seller unless there is evidence of non-compliance. Any changes in the five-year time line, as made by state statute or state rule, are incorporated by reference herewith.

(D) **CLOSING.** The final transaction or meeting between the buyer and the seller, whereby the conveyancing documents are concluded and the money and property transfer.

(E) **ENVIRONMENTAL HEALTH OFFICE.** The county's office or environmental health inspectors charged with the responsibility for administering septic system rules, ordinances and standards.

(F) **LOCAL GOVERNING UNIT (LGU).** Wright County or all cities or towns lying in whole or in part within the county that are recognized by the state to enforce the regulations, statutes and rules pertaining to subsurface sewage treatment systems.

(G) **NOTICE OF NON-COMPLIANCE.** A document properly executed on a state prepared form by an authorized sewer inspector, indicating that the septic system is not in compliance with current standards.

(H) **POINT OF SALE FORM.** A document properly executed on a form and entitled "Wright County Point of Sale Septic System Certificate", which has been approved for use by the County Environmental Health Office. The **POINT OF SALE FORM** is further defined to include the county-prepared escrow summary form, when applicable.

(I) **SELLER.** A person, group of persons, corporation or other entity conveying property to a buyer by warranty deed, quit claim deed, probate deed, contract for deed, trustee deed or by an equivalent instrument of conveyance. The **SELLER** may also be referred to as the **GRANTOR**.

(J) **TRANSFER.** To convey a parcel of real property from a seller to a buyer by warranty deed, quit claim deed, probate deed, contract for deed, trustee deed or other equivalent instrument of conveyance.

(Ord. 11-02, passed 8-9-2011)

§ 157.04 POINT OF SALE FORM FOR SEPTIC CERTIFICATION; EXEMPTIONS; CLOSING OR PROPERTY TRANSFERS.

(A) *General.*

(1) *Point of sale form.* No owner of real property shall enter into a contract for deed, sell or transfer to another party said property unless the following requirements are met.

(a) The seller shall complete a county point of sale form. The point of sale form shall be signed by both the seller (grantor) and buyer (grantee) to the transaction. The seller shall provide the buyer with a copy of the form, along with the escrow summary form or certificate of compliance, when applicable. The seller shall file the point of sale form and any attachments with the County Auditor/Treasurer at the time of recording the transfer.

(b) The seller shall attach to the point of sale form an unexpired certificate of compliance for existing systems, or an unexpired certificate of compliance for new construction or replacement, for all septic systems on the property, unless an exemption in divisions (B) or (C) below applies.

(2) *Certificate of compliance.* A certificate of compliance is valid through the expiration date stated on the certificate of compliance or by the application of state statutes and Minnesota Rules which govern the use and installation of subsurface sewage treatment systems.

(B) *Exempt transactions.* A new certificate of compliance, as required under division (A) above, does not need to be obtained and filed with the point of sale form if the closing and property transfer involves at least one of the following circumstances:

(1) The property is vacant, or all septic systems on the property have been properly abandoned pursuant to state law;

(2) A certificate of real estate value is not required to be filed with the County Auditor/Treasurer, as provided under M.S. § 272.115, as it may be amended from time to time;

(3) The transaction is exempt from the imposition of tax pursuant to M.S. § 287.22, subparts (6), (10), (11), (12), (13), (14) and (15), as they may be amended from time to time. References to this exemption may be omitted or listed separately on the point of sale form;

(4) All dwellings and other buildings with plumbing fixtures that are connected to a municipal wastewater treatment system;

(5) The transfer is due to a tax forfeiture. The exemption of this division (B)(5) applies to the transfer of the property from the tax debtor to the taxing entity. The exemption may be omitted from the point of sale form;

(6) The sale or transfer completes a contract for deed; or

(7) A valid certificate of compliance (existing systems) or certificate of compliance (new construction or replacement) is on file with an LGU. This exemption requires the following conditions to be met:

(a) The existing certificate of compliance must be on file with the LGU;

(b) The LGU must verify the validity of the existing certificate of compliance pursuant to the applicable Minnesota Statutes and Rules which govern the regulation and inspection of subsurface sewage treatment systems prior to the closing and property transfer;

(c) The LGU must sign the point of sale form and certify the "valid thru" or expiration date for the certificate of compliance on the point of sale form; and

(d) The closing and property transfer must occur prior to the certified "valid thru" or expiration date.

(C) *Closing or property transfer without the required certificate of compliance.* If the compliance status is unknown or the existing septic system is non-compliant, and the seller has not brought the system into compliance prior to the closing or property transfer, the closing or property transfer may be allowed upon approval by the County Environmental Health Office, and by establishing an escrow account pursuant to § 157.05 of this chapter. The compliance inspection, upgrade or replacement shall take place on the schedule provided in the approved escrow agreement. The buyer shall be responsible for ensuring that the septic system is brought into compliance pursuant to the escrow agreement when a closing or property transfer occurs pursuant to this section.

(Ord. 11-02, passed 8-9-2011)

§ 157.05 ESCROW ACCOUNTS STANDARD FOR NON-COMPLIANT SEPTIC SYSTEMS.

(A) In situations where § 157.04(C) of this chapter applies, an escrow agreement is required to be established and approved by the County Environmental Health Office prior to closing or property transfer. The parties to the transfer or closing as well as the escrow agent are responsible for ensuring that the escrow agreement complies with this chapter. The approval from the County Environmental Health Office shall be limited to ensuring that the escrow agreement meets the standards outlined in this section. The County Environmental Health Office shall not provide or publish a sample escrow agreement.

(B) The escrow agreement shall at minimum include the following terms and conditions.

(1) The agreement shall recite the cash amount, irrevocable letter of credit amount, or similar liquid negotiable instrument amount that is being escrowed. The amount to be escrowed shall at a minimum be at least one and one-half times a reasonably calculated bid to meet all septic system inspection, upgrade or replacement costs. The County Environmental Health Officer shall have the discretion to determine whether or not the amount to be escrowed is reasonably adequate.

(2) The agreement shall specify a date by which time a certificate of compliance must be obtained, but in no case may the date exceed nine months from the date of closing or property transfer.

(3) The agreement shall clearly identify the person acting as the escrow agent, the company acting as the escrow holder, including the person's and institution's full name, address and phone number.

(4) The agreement must identify the banking institution where the funds will be held.

(5) The escrow agreement shall specify that funds can only be released by the escrow agent upon the written approval of the County Environmental Health Office. The County Environmental Health Office can only authorize the release of funds when the property is fully compliant with the terms of this chapter and a certificate of compliance had been filed with the County Environmental Health Office.

(6) The agreement shall specify who is supplying or arranging for the escrow money or escrow surety instrument.

(7) The agreement shall be signed by the seller, the buyer and the escrow agent and dated.

(8) Prior to the approval of any escrow agreement, the County Environmental Health Office may require that the buyer or seller obtain and attach a copy of a septic system permit.

(Ord. 11-02, passed 8-9-2011)

§ 157.06 TRANSFER OF PROPERTY PROHIBITED; ENFORCEMENT.

No real property in the county shall be transferred unless the buyer (grantee) and seller (grantor) to the transaction have complied with the requirements of this chapter.

(Ord. 11-02, passed 8-9-2011) Penalty, see §157.99

§ 157.07 EFFECTIVE DATE.

This chapter became effective the day following final adoption.

(Ord. 11-02, passed 8-9-2011)

§ 157.99 PENALTY.

(A) Any person, firm, corporation or other entity that violates, or assists in violating, any of the provisions of this chapter or who makes any false statement on the point of sale form or any attached document under this chapter, shall be guilty of a misdemeanor.

(B) Any person, firm, corporation or other entity that violates the terms of an approved escrow agreement as provided in § 157.05 of this chapter shall be guilty of a misdemeanor.

(C) In the event of a violation of this chapter, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, enjoin, restrain, correct or abate such violations.

(Ord. 11-02, passed 8-9-2011)a

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to Minnesota Statutes

References to Minnesota Rules

References to Minnesota Regulations

REFERENCES TO MINNESOTA STATUTES

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<i>M.S. Cites</i>	<i>Code Section</i>
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15.99	152.079, 155.136
18C.60—18C.62	95.02
35.71, subd. 3	90.12
40A	155.105
85	92.05
86B	92.05
86B.005	131.03
86B.205	131.02
97C	92.05
103B.101, subd. 12a	96.02, 96.99
103B.301—103B.335	152.002
103B.301—103B.3355	95.02
103E	96.01, 96.02
103E.005, subd. 9	96.02
103E.005, subd. 12	96.02
103E.021, subd. 1	96.04
103F	157.02
103F.48	96.01, 96.04, 96.05, 152.025, 152.031
103F.48, subd. 1(c)	96.02
103F.48, subd. 1(d)	96.02
103F.48, subd. 1(g)	96.02
103F.48, subd. 3	96.04
103F.48, subd. 3(b)	96.04
103F.48, subd. 3(c)	96.04
103F.48, subd. 5	96.04
103F.48, subd.7	96.02
103F.48, subd. 7(b)	96.05
103F.48, subd. 7(c)	96.05
103F.48, subd. 7(d)	96.05
103F.48, subd. 9	96.99
103F.101—103F.165	155.056, 156.36
103F.201—103F.227	96.01
103F.205	155.056, 156.36
103F.401, subd. 7	96.02
103G	157.02
103G.005	155.003, 156.36
103G.005, subd. 15a	155.090
103G.301—130G.315	155.058, 155.101
103G.311	155.058
115	155.090, 156.35, 157.02
115.55	155.090
115A.03	156.46
115A.03, subd. 21	156.16

115A.919	156.04, 156.46
115B.02, subd. 18	156.46
116	152.009, 156.35, 157.02,
116.03	152.009
116.06, subd. 22	156.16
116.07, subd. 7	152.002, 152.003
116.07, subd. 7a	152.094
120A.05	155.003
120A.05, subd. 9	155.135
120A.05, subd. 11	155.135
120A.05, subd. 13	155.135
120A.05, subd. 17	155.135
123B.41, subd. 9	155.003
123B.41, subd. 10	155.003
144.391	110.002
144.50	155.003
145A	93.01, 93.20, 155.090
145A.02	93.03
145A.05	156.15
145A.05, subd. 1	130.01
145A.08	93.25, 93.26, 93.44
152	92.02
152.01, subd. 4	93.03
152.0275	93.01, 93.03, 93.20, 93.44
152.0275, subd. 2	93.48
216B.02	51.03
216B.02, subd. 4	51.03
216B.02, subd. 6	51.03
216B.1642	155.108
216C.06, subd. 14	155.026
216D	51.20
216D.01—216D.09	51.48, 51.53
216D.04, subd. 3	51.03, 51.51
216F	155.107
237.16	51.01
237.162	51.01, 51.03, 51.49
237.162, subd. 4	51.03
237.163	51.01, 51.03, 51.49
237.163, subd.2(b)	51.02
237.79	51.01
237.81	51.01
238	51.03
238.086	51.01
245A.02	155.135
245G	155.003
272.115	157.04
272.12	154.36
272.19	154.14
287.22, subpart (6)	157.04
287.22, subpart (10)	157.04
287.22, subpart (11)	157.04
287.22, subpart (12)	157.04

287.22, subpart (13)	157.04
287.22, subpart (14)	157.04
287.22, subpart (15)	157.04
299J.05	155.098
302A	51.21
307.08	155.003
308A	51.03
326B.082	151.99
326B.101—326B.194	151.04
326B	151.01
326B.121	151.03
327.70, subd. 5	155.003
327B	155.003
340A.503, subd. 1(a)(1)	130.06
346.37	90.12
347	90.06
347.50—347.565	90.01, 90.04
347.51	90.07
347.515	90.07
364	155.003
375	93.01
375.40	91.01
375.51	131.02, 156.15
394	96.01, 96.04, 152.002, 155.003, 155.056
394.21—394.37	154.14
394.26	155.026
394.36, subd. 4	155.097
394.307	30.10
394.307, subd. 9	30.10
394.361	150.01
394.37, subd. 1	155.999
400	156.15
400.08	156.02
453	51.03
453A	51.03
461.12	110.001
461.12, subd. 1	110.009, 110.025
462	96.04
466.02	93.05
505	154.36
505.01, subd. 3	154.36
505.01, subd. 9	154.36
505.01, subd. 11	154.36
508.47	155.003
541.07	96.99
609.02, subd. 7a	90.05
609.02, subd. 8	90.05
609.03	151.99, 155.999
609.205, clause (4)	90.14
609.226, subd. 1	90.14
609.226, subd. 2	90.14
609.232, subd. 11	93.03

609.487, subd. 2a	93.03
624.20	94.02
626.862	10.20
631.48	10.99

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1719	152.033
2960.045—2960.0490	155.003
4715	155.090
4725	155.090
6120.2500	155.057 , 155.059
6120.2500, subpart 18a	155.003
6120.3800	155.057 , 155.059
7020	152.003, 152.008
7020.0100—7020.2225	152.002
7020.0300, subpart 5	152.009, 155.003
7020.0350, subpart 1	152.090
7020.0350, subpart 4	152.090
7020.0405, subpart 1A	152.077
7020.0405, subpart 1 B	152.077
7020.0535, subpart 5	152.095
7020.1600, subpart 2	152.075
7020.1600, subpart 4a	152.076
7020.2003, subparts 4—6	152.091
7020.2100	152.027, 152.037
7020.2225	152.036
7030	155.107
7050	152.009
7080	155.090
7080—7083	155.090
7080.1100, subpart 84	155.090
7080.1500, subpart 4a	155.090
7080.1500, subpart 4b	155.090
7080.2150	155.090
7080.2200—7080.2230	155.090
7080.2210, subpart 4, § F, item 2	155.090
7080.2260	155.090
7080.2270	155.090
7080.2290	155.090
7080.2350	155.090
7080.2400	155.090
7080.2450	155.090
7080.2450, subpart 2	155.090
7080.2500	155.090
7081	155.090
7081.0270, subparts 3—7	155.090

7082.0600, subpart 1(B)	155.090
7082.0700, subpart 2	155.090
7082.0700, subpart 5	155.090
7083	155.090
7083.0700	155.090
7819.0050—7819.9950	51.01
7819.1000, subd. 3	51.23
7819.1100	51.03, 51.49
7819.1300	51.50, 51.51
7819.1250	51.56
7819.3100	51.52
7819.3100, subd. 2	51.55
7819.3200	51.55
7819.4000	51.51
7819.4100	51.51
7819.5000	51.49, 51.52
7819.5100	51.52
7819.9900—7819.9950	51.03, 51.45

REFERENCES TO MINNESOTA REGULATIONS

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6120.5000—6120.6200	155.056

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93-58	10-5-1993	156.03
96-29	5-7-1996	156.15—156.21, 156.99
96-36	7-9-1996	91.01—91.09, 91.99
04-31	6-1-2004	156.04

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	7-7-1970	156.35—156.45, 156.99

-	12-11-1979	154.01—154.15, 154.30—154.36, 154.50—154.53, 154.99
85-3	2-12-1985	94.01—94.13, 94.99
85-1	2-19-1985	156.46
-	8-30-1988	155.105
89-1	12-5-1989	154.07
-	2-6-1990	156.01
-	--1994	156.02
-	11-10-1998	30.01—30.09
04-01	1-20-2004	95.01—95.09; 95.99
04-03	6-1-2004	156.46
06-01	4-4-2006	51.01—51.06, 51.20—51.30, 51.45—51.59, 51.99
06-02	4-4-2006	152.001—152.010, 152.025—152.037, 152.050—152.061, 152.075—152.079, 152.090—152.095, 152.110—152.117
07-01	2-27-2007	151.01, 150.99
99-02	6-10-2008	151.01—151.05, 151.99
09-01	4-7-2009	50.01
10-01	1-19-2010	90.01—90.14, 90.99
11-02	8-9-2011	157.01—157.07, 157.99
11-06	11-29-2011	93.01—93.07, 93.20—93.27, 93.40—93.48, 93.99
12-02	8-28-2012	130.01—130.08, 130.99
13-02	10-8-2013	110.001—110.011, 110.025—110.035, 110.050—110.055, 110.070—110.074, 110.999
14-01	5-13-2014	131.01—131.08, 131.99
14-02	5-13-2014	92.01—92.10, 92.99
-	8-15-2015	131.04
-	7-28-2015	155.003, 155.047—155.055, 155.057, 155.108
-	8-15-2-15	131.04
-	12-1-2015	155.003, 155.008, 155.030, 155.050, 155.055, 155.078, 155.097, 155.107
16-01	--	155.003, 155.047, 155.048, 155.109
16-2	--	151.01, 154.36, 155.003, 155.056, 155.058, 155.088, 155.090, 155.097, 155.108, 155.109, 156.16, 156.99
16-3	6-14-2016	131.04
16-3a	6-14-2016	131.04
16-4	8-16-2016	30.01, 30.04—30.08
16-5	8-16-2016	30.10
16-6	10-18-2016	152.025, 152.031, 155.047—155.051, 155.088, 155.103
16-7	11-1-2016	155.108
16-8	12-27-2016	155.003, 155.047—155.054, 155.098
17-1	6-27-2017	131.09
17-2	11-14-2017	110.028, 110.033, 110.034, 110.999
17-3	--	155.003, 155.048, 155.110
18-1	3-13-2018	31.01
18-3	6-5-2018	96.01-96.05, 96.99
18-2	6-19-2018	155.003, 155.048, 155.050, 155.051, 155.055, 155.086, 155.108
18-4	6-19-2018	152.010, 155.003, 155.005, 155.030, 155.048, 155.052, 155.056, 155.057, 155.058, 155.059, 155.081, 155.084, 155.087, 155.090, 155.091, 155.097, 155.099, 155.100, 155.101, 155.105, 155.106, 155.107, 155.108
18-6	10-3-2018	155.110
19-4	8-27-2019	155.003, 155.048

19-5	9-24-2019	110.003—110.006, 110.008, 110.026, 110.035, 110.051, 110.054, 110.055, 110.999
19-3	10-22-2019	92.03, 92.07
19-6	11-19-2019	155.081
20-1	12-29-2020	155.003, 155.048, 155.111
21-2	3-16-2021	154.36
21-3	4-27-2021	155.108
21-4	11-30-2021	110.003, 110.007, 110.008, 110.026, 110.027, 110.032, 110.035, 110.051—110.054, 110.999