

Land Use And Related Resource Management Ordinance

**Amended and Adopted
October 8, 2013**

TABLE OF CONTENTS

		<u>Page</u>
<u>SECTION I</u>	<u>GENERAL PROVISIONS</u>	
Subdivision 1.0	Title	I – 1
Subdivision 2.0	Statutory Authorization	I – 1
Subdivision 3.0	Purpose and Intent	I – 1
Subdivision 4.0	Compliance and Interpretation	I – 2
Subdivision 5.0	Severability	I – 3
Subdivision 6.0	Establishment of Management Districts	I – 3
Subdivision 7.0	Official Ordinance Maps	I – 3
Subdivision 8.0	Definitions	I – 4
<u>SECTION II</u>	<u>FLOODPLAIN MANAGEMENT ORDINANCE</u>	
Subdivision 1.0	Statutory Authorizations, Findings of Fact and Purpose	II – 1
Subdivision 2.0	General Provisions	II – 1
Subdivision 3.0	Establishment of Zoning Districts	II – 4
Subdivision 4.0	Floodway District (FW)	II – 5
Subdivision 5.0	Flood Fringe District (FF)	II – 8
Subdivision 6.0	General Floodplain District	II – 11
Subdivision 7.0	Subdivisions	II – 13
Subdivision 8.0	Public Utilities, Railroads, Roads and Bridges	II – 13
Subdivision 9.0	Manufactured Homes/Travel Trailers & Travel Vehicles	II – 14
Subdivision 10.0	Administration	II – 15
Subdivision 11.0	Nonconforming Uses	II – 20
Subdivision 12.0	Penalties for Violation	II – 21
Subdivision 13.0	Amendments	II – 22
<u>SECTION III</u>	<u>SHORELAND MANAGEMENT ORDINANCE</u>	
Subdivision 1.0	Statutory Authorization and Policy	III – 1
Subdivision 2.0	General Provisions and Definitions	III – 1
Subdivision 3.0	Administration	III – 7
Subdivision 4.0	Shoreland Classification System and Land Use Districts	III – 8
Subdivision 5.0	Zoning Requirements/Water Supply/Sanitary Provisions	III – 11
Subdivision 6.0	Nonconformities	III – 21
Subdivision 7.0	Subdivision/Platting Provisions	III – 22
<u>SECTION IV</u>	<u>MINNESOTA RIVER MANAGEMENT DISTRICT</u>	
Subdivision 1.0	District Boundaries	IV – 1

Subdivision 2.0	Scenic and Recreational Districts	IV – 1
Subdivision 3.0	General Regulations	IV – 8
Subdivision 4.0	Review and Certification Requirements	IV – 8

SECTION V **URBAN EXPANSION MANAGEMENT DISTRICT**

Subdivision 1.0	District Boundaries	V – 1
Subdivision 2.0	Permitted Uses	V – 1
Subdivision 3.0	Conditional Uses	V – 1
Subdivision 4.0	Additional Standards for Permitted and Conditional Uses	V – 1
Subdivision 5.0	Manufactured Home Parks and Recreational Camping Areas	V – 2
Subdivision 6.0	Feedlot and Poultry Operations	V – 2
Subdivision 7.0	Minimum Lot Size, Building Height, Setback Requirements	V – 2

SECTION VI **RURAL PRESERVATION MANAGEMENT DISTRICT**

Subdivision 1.0	District Boundaries	VI – 1
Subdivision 2.0	Permitted and Conditional Uses	VI – 1
Subdivision 3.0	Additional Standards for Permitted and Conditional Uses	VI – 5
Subdivision 4.0	Lot Size, Setback and Height Regulations	VI – 5
Subdivision 5.0	General Regulations	VI – 6
Subdivision 6.0	Farmstead & Field Windbreak Plantings	VI – 6

SECTION VII **FEEDLOTS**

Subdivision 1.0	Adoption by Reference of State Regulations	VII – 2
Subdivision 2.0	Scope	VII – 2
Subdivision 3.0	General Provisions	VII – 2
Subdivision 4.0	Permit/Registration Requirements	VII – 3
Subdivision 5.0	Animal Units	VII – 5
Subdivision 6.0	Setback Requirements for Feedlots/Manure Storage Areas	VII – 6
Subdivision 7.0	Animal Waste Storage Structures	VII – 6
Subdivision 8.0	Animal Waste Utilization and Application Setbacks	VII – 6
Subdivision 9.0	Carcass Disposal	VII – 7
Subdivision 10.0	Conditional Use Permits	VII – 9
Subdivision 11.0	Variance	VII – 10
Subdivision 12.0	Definitions	VII – 10

SECTION VIII **GENERAL BUSINESS DISTRICT**

Subdivision 1.0	Purpose	VIII - 1
Subdivision 2.0	Permitted Uses	VIII – 1
Subdivision 3.0	Conditional Uses	VIII – 1
Subdivision 4.0	Accessory Uses	VIII – 1

Subdivision 5.0	Height, Yard, Lot Width, and Coverage Regulations	VIII – 1
Subdivision 6.0	General Regulations	VIII – 2

SECTION IX INDUSTRY DISTRICT

Subdivision 1.0	Purpose	IX – 1
Subdivision 2.0	Permitted Uses	IX – 1
Subdivision 3.0	Conditional Uses	IX – 2
Subdivision 4.0	Accessory Uses	IX – 2
Subdivision 5.0	Height, Yard, Lot Width and Lot Coverage Requirements	IX – 2
Subdivision 6.0	General Regulations	IX – 2

SECTION X MN AIRPORT ZONING ORDINANCE FOR GRANITE
FALLS MUNICIPAL AIRPORT

Section I	Purpose and Authority	2
Section II	Short Title	3
Section III	Definitions	3
Section IV	Air Space Obstruction Zoning	5
Section V	Land Use Safety Zoning	7
Section VI	Airport Zoning Map	10
Section VII	Nonconforming Uses	11
Section VIII	Permits	11
Section IX	Variances	13
Section X	Hazard Marking and Lighting	14
Section XI	Airport Zoning Administrator	15
Section XII	Board of Adjustment	15
Section XIII	Appeals	16
Section XIV	Judicial Review	18
Section XV	Penalties	18
Section XVI	Conflicts	19
Section XVII	Severability	19
Section XVIII	Effective Date	19

SECTION XI COUNTRYSIDE PUBLIC HEALTH SERVICE NUISANCE
ORDINANCE

Section 100.00	Definitions	XI - 1
Section 100.10	Public Nuisances Affecting Health	XI - 1
Section 100.20	Enforcement	XI – 3
Section 100.30	Abatement of Nuisance and Assessment of Cost	XI – 3
Section 100.40	Penalty	XI – 3
Section 100.50	Injunctive Relief	XI – 3
Section 100.60	Separability	XI - 4
Section 100.70	Effective Date	XI - 4

SECTION XII

GENERAL REGULATIONS

Subdivision 1.0	Solid Waste	XII – 1
Subdivision 2.0	Planned Unit Development	XII – 1
Subdivision 3.0	Parking and Loading Regulations	XII – 5
Subdivision 4.0	Performance Standards	XII – 8
Subdivision 5.0	Environmental Review Program	XII – 8
Subdivision 6.0	Solar Access	XII – 9

SECTION XIII

ADMINISTRATION

Subdivision 1.0	Administrative Responsibility	XIII – 1
Subdivision 2.0	County Planning Commission	XIII – 2
Subdivision 3.0	Board of Adjustment	XIII – 3
Subdivision 4.0	Land Use Permit	XIII – 4
Subdivision 5.0	Conditional Use Permits	XIII – 4
Subdivision 6.0	Variances	XIII – 8
Subdivision 7.0	Fees	XIII – 10
Subdivision 8.0	Amendments	XIII – 10
Subdivision 9.0	Violations, Penalties and Enforcement	XIII – 11

SECTION XIV

SUBSURFACE SEWAGE TREATMENT SYSTEMS

Subdivision 1.0	Purpose and Authority	XIV – 1
Subdivision 2.0	Definitions	XIV – 2
Subdivision 3.0	General Provisions	XIV – 5
Subdivision 4.0	General Requirements	XIV – 6
Subdivision 5.0	SSTS Standards	XIV – 8
Subdivision 6.0	SSTS Permitting	XIV – 11
Subdivision 7.0	Management Plans	XIV – 15
Subdivision 8.0	Compliance Management	XIV – 16
Subdivision 9.0	Enforcement	XIV – 18
Subdivision 10.0	Record Keeping	XIV – 20
Subdivision 11.0	Annual Report	XIV – 20
Subdivision 12.0	Fees	XIV – 20
Subdivision 13.0	Interpretation	XIV – 20
Subdivision 14.0	Severability	XIV – 20
Subdivision 15.0	Abrogation and Greater Restrictions	XIV – 20
Subdivision 16.0	Ordinance Repealed	XIV – 20

SECTION XV

ADULT USE/SEXUALLY ORIENTATED BUSINESS
ORDINANCE

Subdivision 1.0	Definitions	XV – 1
Subdivision 2.0	Adult Use License Required	XV – 4

Subdivision 3.0	Adult Use/Sexually Orientated Business License Fee	XV – 6
Subdivision 4.0	Granting of Adult Use/Sexually Orientated Business License	XV – 6
Subdivision 5.0	Persons Ineligible for Adult Use/Sexually Orientated Business License	XV – 7
Subdivision 6.0	Places Ineligible for Issuance of Adult Use/Sexually Orientated Business License	XV – 7
Subdivision 7.0	Conditions of Adult Use/Sexually Orientated Business License	XV – 7
Subdivision 8.0	Adult Use/Sexually Orientated Business Operational Restrictions	XV – 8
Subdivision 9.0	Permitted Locations for Adult Use Principal	XV – 9
Subdivision 10.0	Hours of Operation	XV – 10
Subdivision 11.0	Sign Regulations	XV – 10
Subdivision 12.0	Adult Cabaret Regulations	XV – 10
Subdivision 13.0	Adult Viewing Booth Regulations	XV – 11
Subdivision 14.0	Adult Use Accessory	XV – 11

SECTION XVI RENEWABLE ENERGY

Subdivision 1.0	Wind Energy Conversion Systems (WECS)	XVI – 1
Subdivision 2.0	Solar Energy Systems	XVI – 8

SECTION XVII NONCONFORMITIES

Subdivision 1.0	Nonconforming Use	XVII – 1
Subdivision 2.0	Nonconforming Structure	XVII – 2
Subdivision 3.0	Nonconforming Lots	XVII – 3
Subdivision 4.0	Nonconforming Signs	XVII – 4

SECTION XVIII SUBDIVISION REGULATIONS

Subdivision 1.0	Intent and Purpose	XVIII – 1
Subdivision 2.0	Scope and Applicability	XVIII – 1
Subdivision 3.0	Definitions	XVIII – 2
Subdivision 4.0	Administration	XVIII – 8
Subdivision 5.0	Minor Subdivision	XVIII – 9
Subdivision 6.0	Platting Procedure	XVIII – 10
Subdivision 7.0	Preliminary and Final Plat Requirements	XVIII – 13
Subdivision 8.0	General Development Standards	XVIII – 17
Subdivision 9.0	Minimum Design Standards	XVIII – 17
Subdivision 10.0	Engineering Standards	XVIII – 22
Subdivision 11.0	Required Improvements	XVIII – 27
Subdivision 12.0	Financial Guarantee	XVIII – 29
Subdivision 13.0	Release or Reduction of Financial Guarantee	XVIII – 30
Subdivision 14.0	Separability	XVIII – 30
Subdivision 15.0	Effective Date	XVIII – 31

SECTION XIX

CANBY MUNICIPAL AIRPORT ZONING ORDINANCE

Section I	Purpose and Authority	2
Section II	Short Title	2
Section III	Definitions	2
Section IV	Airspace Obstruction Zoning	5
Section V	Land Use Safety Zoning	7
Section VI	Airport Zoning Map	11
Section VII	Nonconforming Uses	12
Section VIII	Permits	12
Section IX	Variances	13
Section X	Hazard Marking and Lighting	14
Section XI	Airport Zoning Administrator	14
Section XII	Board of Adjustment	14
Section XIII	Appeals	15
Section XIV	Judicial Review	16
Section XV	Penalties	16
Section XVI	Conflicts	17
Section XVII	Severability	17
Section XVIII	Revision to Prior Ordinance	17
Section XIX	Effective Date	18

SECTION XX

SIGNS

Subdivision 1.0	Purpose	XX – 1
Subdivision 2.0	General Standards	XX – 1
Subdivision 3.0	Signs Permitted Per District	XX – 3
Subdivision 4.0	Maintenance	XX – 3
Subdivision 5.0	Abandoned Signs	XX – 4
Subdivision 6.0	Variances	XX – 4
Subdivision 7.0	Inspection	XX – 4
Subdivision 8.0	Enforcement	XX – 4

SECTION XXI

MINING REGULATIONS

Subdivision 1.0	Intent and Purpose	XXI-1
Subdivision 2.0	Scope and Availability	XXI-1
Subdivision 3.0	General Provisions	XXI-2
Subdivision 4.0	Definitions	XXI-3
Subdivision 5.0	Application	XXI-9
Subdivision 6.0	Operating Conditions	XXI-13
Subdivision 7.0	Reclamation	XXI-16
Subdivision 8.0	Insurance, Financial Guarantees, Fees and Inspections	XXI-19
Subdivision 9.0	Violations and Penalties	XXI-19

Subdivision 10.0	Termination of Permit	XXI-20
Subdivision 11.0	Effectuation	XXI-20

SECTION XXII EFFECTIVE DATE AND REPEALER

Subdivision 1.0	Effective Date	XXII- 1
Subdivision 2.0	Repealer	XXII- 1

SECTION I - GENERAL PROVISIONS

Subdivision 1.0 Title

Except when referred to herein as the Ordinance, this Ordinance shall be known, cited and referred to as the "Yellow Medicine County Land and Related Resource Management Ordinance".

Subdivision 2.0 Statutory Authorization

This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 394; Minnesota Statutes 103B; Minnesota Statutes, Chapter 116; Minnesota Statutes, Chapter 103F; Minnesota Statutes, Chapter 103G; or successor statutes and Minnesota Rules, Chapter 7020; Minnesota Rules, Chapters 7080-7083; Minnesota Rules, Chapter 4410; or successor rules.

Subdivision 3.0 Purpose and Intent

The purpose of this Ordinance is to promote the public health, safety, comfort and general welfare of the people of Yellow Medicine County and aim toward the following goals in providing for this general purpose:

- 3.1 To divide the unincorporated areas of the County into zones and districts, restricting and regulating therein the location, construction, reconstruction, alteration and the uses of structures and land;
- 3.2 To promote the orderly development of residential, business, industrial, recreational and public areas of the County;
- 3.3 To provide for adequate light, air, and convenience of access to property by regulating the use of land, buildings and the bulk of structures;
- 3.4 To provide for the compatibility of different land uses and the most appropriate use of land throughout the County;
- 3.5 To conserve and protect natural resources and maintain a high standard of environmental quality;
- 3.6 To preserve and protect the rural character, natural landscape, and natural scenic beauty of the County;
- 3.7 To protect and preserve viable agricultural land;
- 3.8 To provide for the gradual and equitable elimination of those uses of land and structures which do not conform to the standards for the area in which they are located;
- 3.9 To provide for the orderly development of land through subdivision regulation;
- 3.10 To protect area needed for future public use from further development through official maps;
- 3.11 To further the appropriate use of land, and conserve and protect the natural resources of the County for present and future generations;
- 3.12 To provide for the enforcement of the Ordinance and to define and limit the powers and duties of the administrative officials and bodies responsible therefore.

Subdivision 4.0 Compliance and Interpretation

4.1 Scope.

No structure in Yellow Medicine County that lies outside the incorporated limits of any municipality shall be erected or altered which does not comply with the regulations of this Ordinance, nor shall any structure or premises be used for any purpose other than a use permitted by this Ordinance. After the effective date of the Ordinance any existing use of land or structure not in conformity with this Ordinance shall be regarded as a non-conforming use.

4.2 Interpretation

In interpreting the provisions of this Ordinance, they shall be considered as the minimum requirements for the promotion of the public's health, safety, and general welfare. Any statutes, regulations or permanent township zoning ordinances that are in effect or which shall be enacted, during the period covered by this Ordinance, which are more restrictive shall apply. Where the provisions of this Ordinance impose greater restrictions than those of any statutes, regulations of township zoning ordinances, the provisions of this Ordinance shall apply.

The following rules of construction shall apply in interpreting this Ordinance:

1. The words and phrases used in this Ordinance shall be construed in their plain, ordinary and usual sense except that technical words and phrases having a peculiar and appropriate meaning in the law shall be understood according to their technical definition.
2. Unless the context clearly requires otherwise, the use of either past, present and/or future tenses shall include the other tenses.
3. Whenever this Ordinance requires an act to be done and when such act may legally be done by an agent or employee as well as by the principal, such requirements shall be satisfied by the performance of such act by an authorized agent or employee.
4. The rules of statutory construction established for the State of Minnesota and/or case law shall apply in the construction in this Ordinance.
5. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.
6. The word "shall" is mandatory and not discretionary; and the word "may" is permissive.
7. The word "person" includes a firm, association, organizations, partnership, trust, company or corporation as well as an individual.
8. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
9. All stated and measured distances shall be taken to the nearest integral foot. If a measured distance is one-half (1/2) foot or less, the integral foot next below shall be taken.

Subdivision 5.0 Severability

If any section, clause, provision or portion of this Ordinance, is adjudged unconstitutional or invalid by a court of competent jurisdictions, the remainder of this Ordinance shall not be affected thereby.

Subdivision 6.0 Establishment of Management Districts

For the unincorporated areas of Yellow Medicine County that lie within the jurisdiction of this Ordinance, they are hereby divided into seven Management Districts. These Management Districts include the following:

- Floodplain Management District
- Shoreland Management District
- Minnesota River Management District
- Urban Expansion Management District
- Rural Preservation Management District
- General Business District
- Industry District

Unincorporated areas that lie within these Management Districts must conform with the provisions of this Ordinance.

Subdivision 7.0 Official Ordinance Maps

The following maps are hereby adopted by reference and declared to be a part of this Ordinance:

1. Official Ordinance Map #1 (Identifies the geographic location of the Flood Plain Management District.)
2. Official Ordinance Map #2 (Identifies the major roadways of Yellow Medicine County.)
3. Official Ordinance Map #3 (The map taken from the legal descriptions in the Minnesota River Management Plan (NR 2600), along with the Land Management Maps (Plates 2 to 7 in the Minnesota River Management Plan) which identifies those lands that lie within the Minnesota River Management District. In case of conflict between the map and the property description in NR 2600, the latter shall prevail.)
4. Official Ordinance Map #4 (Identifies the Urban Expansion Management District)
5. Official Ordinance Maps #5 (The Rural Preservation Management District is divided into Rural Preservation Areas 1 through 8. Each of these Rural Preservation Areas are identified by Official Ordinance Maps #5.)

Official Ordinance Maps #1, #2, #3, #4, #5, a copy of NR 2600 and a copy of the Land Use Management Maps from the "Management Plan for the Minnesota River", shall be on file in both the County Auditor's and the County Planning and Zoning Administrator's offices.

Subdivision 8.0 Definitions

For purposes of this Ordinance, the below stated definitions, as well as those set forth in other portions of this Ordinance, shall apply whenever the words are used in connection with any matter pertaining to the implementation of this Ordinance.

8.1 Definitions

Accessory Structure - A structure or a portion of a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use structure on the same lot.

Accessory Use – A use subordinate or clearly incidental to the principal use of a lot or a building, located on the same lot as the principal use, and used exclusively for purposes incidental to those of the principal use.

Adult Use/Sexually Orientated Business – Adult uses/sexually orientated businesses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouses, sauna facilities, adult companionship establishments, adult rap/conservation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, adult viewing booth, and other premises, enterprises, establishments, 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.

Adult Use Accessory – A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazines sales in which there is an emphasis on the presentation, display, depiction or description or “specified sexual activities” or “specified anatomical areas”.

Adult Use Principal – A use, business, or establishment having more than ten percent (10%) of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from movie rentals or magazine sales in which there is an emphasis on the presentation, display, depiction or description or “specified sexual activities” or “specified anatomical areas”.

Adult Use Body Painting Studio – A business or establishment which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when any “specified anatomical areas” of such body are wholly or partially nude.

Adult Use Bookstore – A building or portion of a building used for the barter, rental or sale of items, consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas”.

Adult Use Cabaret – A building or portion of a building used for providing dancing or other live

entertainment, if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor, or if such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Use Companionship Establishment – A companionship establishment if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use Conversation/Rap Parlor – A Conversation/Rap Parlor if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use Health/Sport Club – A health/sport club is such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use Hotel/Motel – A hotel or motel if such a building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and wherein material is presented which is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas”.

Adult Use Massage Parlor, Health Club – A massage parlor or health club is such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use Mini Motion Parlor, Health Club – A massage parlor or health club is such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

Adult Use Modeling Studios – An establishment whose major business is the provision, to customers, of models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or in the

presentation, display, depiction, or description of “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Viewing Booth – any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to a single person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.

Adult Use Motion Picture Arcade – any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.

Adult Use Motion Picture Theater – A building or portion of a building with a capacity of more than fifty (50) persons used to show images if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or where the images so displayed are distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use Novelty Business – A business which has a principal activity of selling devices which stimulate human genitals or devices which are designed for sexual stimulation.

Adult Use Sauna – A sauna is such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or which provides 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 the service provided by the sauna facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Use 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 is not open to the public generally, is only open to one or more classes of the public and is not open to any minor 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”.

Agency – Minnesota Pollution Control Agency

Aggregated Project – Aggregated projects are those which are developed and operated in a

coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

Agricultural Building or Structure - Any structure or building existing or erected on agricultural land that is designed, constructed, and used principally for agricultural purposes, with the exception of dwellings.

Agricultural Use - The use of land and associated structures for the growing, production and/or harvesting of crops, livestock and livestock products for the production of income. This does not include a facility primarily engaged in processing agricultural products. This includes land enrolled in government conservation programs, wetlands, pasture, forest land, and wildlife land.

Airport - Any land or structure which is used or intended for use, for the landing and take-off of aircraft, and any appurtenant land or structure used or intended for use of port buildings or other port structures or rights-of-way.

Alley – A public right-of-way less than 30 feet in width that normally affords a secondary means of vehicular access to abutting property.

Animal Manure – Means poultry, livestock, or other animal excreta, or a mixture of excreta with feed, bedding, precipitation and other materials.

Applicant – A person, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit or other land use permit.

Arterial Street or Highway (Primary) - A street or highway of considerable continuity designed primarily to serve as an intercommunication link between sectors of the County and beyond/such as from within a city to outlying areas.

Aquaculture – Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for commercial purposes.

Attorney – The County Attorney

Basement - means 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.

Bed and Breakfast Establishments – An owner-occupied, single-family dwelling structure where room(s), breakfast, and hospitality are provided and all costs are included in the nightly room price. Meals may or may not be served to residents or overnight guests.

Block – A tract of land bounded by streets or a combination of streets and public or private open space, cemeteries, railroad rights-of-way, shorelines, waterways, or city corporate limits.

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

- 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 waterbody;
- 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 percent or greater; and
- d. the slope must drain toward the waterbody.

Bluff Impact Zone – a bluff and land located within 20 feet from the top of a bluff.

Bluffline - A line along the top of a slope connecting the points at which the slope becomes less than 13%, measured according to the manner and method set forth in applicable Minnesota Rules. This applies to those slopes within the land use district(s) which are beyond the setback provisions from the ordinary high water mark.

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

Board of County Commissioners – The Yellow Medicine County Board of County Commissioners

Boathouse – A structure designed and used solely for the storage of boats or boating equipment.

Boulevard – The portion of the street right-of-way between the curb line and the property line.

Buildable Area – The space remaining on a lot for building purposes after the setback and open space requirements of this section have been met.

Buildable Land – Land with a slope less than 25 percent and outside of any required setbacks and above any floodway, drainageway, or drainage easement.

Building - Any structure either temporary or permanent having a roof for the shelter, support or enclosure of persons, animals, chattel or property of any kind.

Building Drain - The building drain is that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

Building Height - The highest point of the structure.

Building Line - The line measured across the width of the lot as the point where the main structure is placed in accordance with setback provisions.

Business – Any occupation, employment or enterprise wherein goods are produced, traded or sold, or services are rendered as an economic enterprise.

Campground –An area of property used on a daily, nightly, weekly or other periodic basis, and which is accessible by vehicle and containing campsites or camping spurs for tents or trailer camping.

Cemetery – Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes, including columbaria, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

A. Inactive cemetery – no burials have taken place for 20 years

B. Active cemetery – in use at this time

Church – a structure that holds regular worship services and is recorded with the County Recorder as the like status. This structure must also be registered as a church with the Minnesota Department of Revenue.

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

Clear-Cutting - The removal of an entire stand of vegetation.

Cluster Development - A pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

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

Collector Street (Secondary) - A street designed to serve the internal traffic circulation of a recognized land use area which distributes and collects traffic from local streets and connects with Arterial Streets and/or Highways.

Commercial Planned Unit Development – Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example,

hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial Use - The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

Commissioner - Minnesota Commissioner of Natural Resources or his authorized representative.

Community Water and Sewage Systems - Utilities systems serving a group of buildings, lots or an area of the County, with the design and construction of such utility systems as approved by the County.

Commercial WECS – A WECS of equal to or greater than 100 kW in total name plate generating capacity.

Comprehensive Plan – The policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for planned execution documented in tests, ordinance, and maps which constitute the guide for the future development of the unincorporated area of the County.

Concept Plan or Sketch Plan – A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to County and/or city officials at the pre-application meeting.

Conditional Use - Means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) the use of development conforms to the Comprehensive Plan, and (3) is compatible with the existing permitted uses of the district.

Construction Short Form Permit – Construction short-form means a permit issued for an animal feedlot or manure storage area according to parts 7020.0505 and 7020.0535. This also applies to new or existing feedlots intending to construct or expand to a capacity between 300 and 999 animal units. To qualify the feedlot must be constructed and operated in accordance with technical standards in Minnesota Rules chapter 7020.2000 to 7020.2225 and the facility does not have a pollution hazard. The duration of this permit is 24 months from the date of issuance.

Contour Interval – The vertical height between contour lines.

Contour Map – A map on which irregularities of land surface are shown by lines connecting points of equal elevations.

County - Yellow Medicine County, Minnesota.

County Board - Yellow Medicine County Board of Commissioners.

Day Care Center – A use defined by Chapter 462, Minnesota Statutes, which is operated for the care of children and/or adults.

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.

Demolition Landfill – An area for the disposal of solid waste resulting from the demolition of buildings, roads and other man-made structures, such as concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. Demolition debris does not include asbestos waste.

Department – Yellow Medicine County Zoning Department

Depth of Lot - The mean horizontal distance between the mean front and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

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

Developer – The owner of land proposed to be subdivided or their representative.

Development – The act of building structures and installing site improvements.

Development Agreement – An agreement with the owner of the whole parcel as charged on the tax lists of the County specifying the number of density units allocated amongst the parcels being created, the zoning district the particular parcels are located in, and the fact that the use, development, and further conveyance of the parcels are subject to the regulations contained in the Land Use Ordinance.

Development Plan – A plan guiding the development of the property to the ultimate land use. Such plan shall include, but is not limited to: site analysis information, staging plan, grading plan, drainage plan, and end use plan.

District - A section of the County for which the regulations governing the height, area, use of buildings and premises are the same.

Drainage Course – A watercourse or indenture for the drainage of surface water.

Drainage Ditch – Shall have the meaning ascribed to it in Minn. Stat. Ch. 103E.

Drainageway – A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Duplex, Triplex, and Quad – A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings.

Dwelling, Farm - A dwelling located on a farm where the resident of said dwelling either owns, operates or is employed in agricultural activities thereon.

Dwelling, Multiple - A residence designed for or occupied by two (2) or more families, with separate housekeeping and cooking facilities.

Dwelling, Non-Farm - A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident of said dwelling neither operates nor is employed in agricultural activities thereon.

Dwelling site – A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit – Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Earthen Storage Basin – An impoundment made by excavation or earthfill for temporary storage of animal or other agricultural waste.

Easement - A grant by an owner of land for the use of a strip of land for the purpose of constructing and maintaining walkways, roadways, and utilities including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, cable television, storm sewer or storm drainageways and gas lines.

Engineer – the County Engineer

Equal Degree of Encroachment - A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Essential Services – Wind turbine farms, overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communications, supply or

disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Ordinance the word "building" does not include "structure" for essential services.

Existing Building Site – A non-cultivated area that has been maintained, has a rural address, and has an existing access to a public right-of-way and at least one of the following is present on the premises: a windbreak, water well, accessory structures, or a dwelling.

Expansion – Construction or any activity which may result in the increase in the number of animal units that a feedlot is capable of holding or an increase in manure storage capacity.

Extractive Use - Any artificial excavation of the earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation.

Failure to Protect Groundwater – At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or an individual licensed pursuant to Subdivision 5.0 of Section XIV of this Ordinance.

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.

Farm - A tract of land, which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farm may include an agricultural dwelling and accessory building and structures necessary to the operation of the farm.

Farming - The cultivation of the soil and all activities incidental thereto; agriculture.

Farmstead Windbreak - Multiple rows of trees and/or shrubs protecting the farmstead home, buildings and/or livestock.

Feeder Line – Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high voltage transmission line.

Feedlot, Animal – A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Ordinance.

- a. Existing Feedlot – An animal feedlot that has been utilized for livestock production within the past five years.
- b. New Feedlot – An animal feedlot or manure storage area constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously; or an animal feedlot or manure storage area that existed previously and has been unused for five years or more.

Feedlot Operator – An individual, corporation, a group of individuals, a partnership, joint venture, owner, or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

Feedlot Setback – The nearest point of a neighboring dwelling to the nearest corner of the livestock or manure holding structure.

Field Windbreak - A strip or belt of trees or shrubs established within or adjacent to a field.

Final Plat – The final map, drawing, or chart on which the subdivider’s plan of subdivision is presented to the County Commissioners for approval and which, if approved, will be submitted to the County Recorder.

Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe – that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Yellow Medicine County.

Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood Proofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood

discharge.

Forest Land Conversion – The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

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 wood roads, skidways, landings, and fences.

Frontage – The boundary of a lot which abuts an existing or dedicated public street or roadway.

Grade – The average of the finished level at the center of the exterior walls of the building or the slope of a road, street, or other public way specified in percentage terms.

Guest Cottage – A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

High-voltage transmission line – A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

Home Occupations - The use of a property zoned residential or agricultural for any occupation, activity or profession carried out for financial gain which is clearly subordinate and incidental to the use of the property as residential, which is carried out solely within the main dwelling or an accessory building, and does not alter or change the exterior character of the appearance of the property and that which is normally associated with a residential dwelling unit, and that is created and operated by the occupant of the dwelling. This does not include garage sales, yard sales and one-time product sales parties.

Imminent Threat to Public Health and Safety – At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Subdivision 5.0 of Section XIV of this Ordinance.

Incorporated – When manure is surface applied and mechanically incorporated within 24 hours of application.

Industrial Use - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Injected – When manure is mechanically injected or tilled into the soil during manure application.

Intensive Vegetation Clearing – The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

Interim Permit – Issued by the commissioner or the county feedlot pollution control officer in accordance with parts 7020.0505 and 7020.0535, for an existing feedlot of 999 or less animal units intending to construct or expand when the facility has a pollution hazard. These permits will expire two (2) years after the date they are issued.

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

Kennel – Any structure or premises on which four (4) or more of any type of domestic or exotic pets over four (4) months of age are for profit boarded, bred or offered for sale.

Land Use – Any activity that involves the use of the land or environmental quality involving structures, alteration of the land form or alteration of land, air or water quality. This includes, but is not limited to, buildings, essential services, agriculture, natural resource harvesting, commerce, industry, residential development and storm water systems.

Land Use Permit – a permit required for any activity that involves use of the land or environmental quality involving structures, alteration of the land form or alteration of land, air or water quality. This includes, but is not limited to, buildings, essential services, agriculture, natural resource harvesting, commerce, industry, residential development and storm water systems.

Liquor License – Any of the following licenses issued or approved by the County of Yellow Medicine pursuant to Minnesota Statute, Chapter 340A:

1. On-sale Intoxicating Malt Liquor License, or
2. On-sale Intoxicating Liquor License, or
3. On-sale Wine License

Liquid Manure – Manure consisting of four percent solids or less.

Livestock - Domestic farm animals including, but not limited to, cattle, hogs, horses, bees, sheep, goats, chickens, and other animals commonly kept for commercial food production purposes.

Livestock Waste Lagoon - A diked enclosure for disposal of livestock wastes by natural process.

Local Street (Tertiary) - A street designed for access to abutting property and not intended to facilitate through traffic.

Lodging Establishment - A hotel, motel, lodging house, boarding house, resort or similar facility, as defined by Minnesota Statutes and/or Minnesota Rules, where sleeping facilities are offered to the public.

Lot - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation thereof,. For the purposes of these regulations, a lot shall be considered to be an individual building site that shall be occupied by no more than one principal structure equipped with sanitary facilities.

Lot Area - The land area within the lot lines.

Lot, Corner – A lot bordered on at least two adjacent sides by intersecting streets.

Lot Depth - The mean horizontal distance between the mean front road right-of-way line and mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

Lot Lines - The lines bounding a lot, as defined herein. When a lot abuts a road, street, highway, avenue, park or other public property, except an alley, such line shall be know as right-of-way, and when a lot line abuts on an alley, it shall be known as an alley line.

Lot of Record - Any lot which was of record by deed or plat filed in the office of the County Recorder on or before the effective date of this Ordinance; or any lot where sufficient proof can be shown that an unrecorded contract for deed was entered into on or before the effective date of this Ordinance.

Lot Width - The shortest distance between the side lot lines.

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

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

Manufactured Home -

TYPE I Manufactured Homes - A manufactured home is a living quarters designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks, connection to utilities and the like.

TYPE II Manufactured homes with a floor area of greater than eight hundred (800) square feet shall meet the following specifications:

1. The structure shall have a permanent masonry or wood foundation meeting the requirements of the State Building Code that shall be solid for the complete

- circumference of the structure.
2. The average width of the structure and foundation shall be twenty (20) feet.
 3. The structure shall have conventional siding, lapping the foundation by a minimum of one (1) inch.
 4. The structure shall be anchored in accordance with the State Building Code.
 5. The structure shall have a pitched roof, covered with shingles or tile, with a minimum of twelve (12) inch eaves.

Manure Management Plan – Includes but not limited to the management of manure, manure handling and method of application, prescribed rates of application and expected nutrient carryover, soils and manure testing and analysis, crop rotation, frequency of application, commercial fertilizer to be used where manure is land applied, signed spreading agreements, contracts and acreage available to manure application and plans for any proposed manure storage structure, and as further defined by MPCA.

Manure Storage Area – Manure storage areas means an area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding areas of an animal feedlot that are managed according to part 7020.2000, subpart 3, are not manure storage areas.

Meteorological Tower – For the purposes of this Wind Energy Conversion Systems Ordinance, 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 Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

Metes and Bounds - A method of property description in which successive sides are described by means of direction and distance from an easily identifiable point.

Micro-WECs – Micro-WECs are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

Minimum Subdivision Design Standards – The guides, principles, and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Mining Operation - Means the removal of stone, sand and gravel, clay, topsoil, coal, salt, iron, copper, nickel, petroleum or other mineral from the land for commercial, industrial, or governmental purposes.

Minor – Person(s) under eighteen (18) years of age.

Minor Repair – The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original

area, dimensions, design, specifications or concept of the SSTS.

Modular Home – A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.

MPCA – Minnesota Pollution Control Agency

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

Natural Drainageway – A depression in the earth’s surface, such as ravines, draws, and hollows, that has definable beds and banks capable of conducting water runoff from adjacent lands.

Non-Commercial WECS – A WECS of less than 100 kW in total name plate generating capacity.

Non-conforming Use - Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Non-Residential Subdivision – A subdivision whose intended use is other than residential, such as commercial or industrial.

Notice of Noncompliance – A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

NPDES Permit – National Pollutant Discharge Elimination System. A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations (CAFO’s).

NRCS – Natural Resource Conservation Service

Obstruction - Any dam, well, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collection of debris carried by such water.

Official Control - Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or

any part of the general objectives of the Comprehensive Plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

Open Space Design Development – A pattern of subdivision development that places residential dwelling units into compact groupings while providing a network of dedicated open space.

Open Space Recreation Uses - Means recreation uses particularly oriented to and utilizing the outdoor character of an area; including public and private parks and recreation areas, wildlife management and water production areas, multi-purpose trail systems, environmental education sites, historic sites and interpretive centers, primitive campsites, campgrounds and waysides.

Ordinary High Water Level - The boundary of “public waters” and “wetlands” as defined by Minnesota Statutes Section 103G, an elevation 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 level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water level is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

Outlot – A lot remnant or any parcel of land included in a plat which is not buildable at the time of platting. An outlot may be a large tract that could be subdivided in the future; or a lot which may be too small to comply with the minimum size requirements of zoning and subdivision ordinances; or a lot otherwise unsuitable for development and, therefore, not usable as a building site.

Owner - Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having a sufficient proprietary interest in the land to commence and maintain proceedings under this Ordinance, or the owner of record.

Pedestrian Way – A public or private right-of-way across or within a block to be used by pedestrians.

Permit-by-Rule Demolition Landfill – A facility designed for less than 15,000 cubic yards total capacity and operating less than a total of 12 consecutive months and not located adjacent to another demolition debris permit-by-rule facility.

Permitted Use – A public or private use which conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district and is allowed without a conditional use permit. Such uses require a use permit prior to undertaking the activity.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.

Planned Unit Development – A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structures operated as condominiums, time-share condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Planning Commission – The Yellow Medicine County Planning Commission

Plot - A tract other than one unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as an individual site and improved or intended to be improved by the erection thereon of buildings and having a frontage upon a public road or highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Police Related Service Calls – Requests for assistance made to the law enforcement agency from a neighboring resident, a victim of a crime, a patron of an Adult Use/Sexually Oriented business, or the management of an Adult Use/Sexually Orientated business. Such calls may include but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution, and trespassing.

Poultry - All domestically raised fowl including, but not limited to: chicken, turkeys, ducks, geese and game birds.

Poultry Lot - (1) The place of confined feeding, hatching, raising or holding of poultry in enclosures, yards, or pens where animal manure may be accumulated; or (2) range areas not normally used for pasture or crops, in which animal manure may accumulate and be carried directly or indirectly to waters of the State or constitute a potential pollution hazard.

Power Purchase Agreement – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

Practical Difficulty - 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.

Preliminary Approval – Official action taken by a municipality or a county on an application to create a subdivision that establishes the rights and obligations set forth in Minnesota Statutes Section 462.358 and the applicable subdivision regulation. In accordance with Section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing, without limitation, the number, layout, and location of lots,

tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Preliminary Plat - The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and County Board for their consideration.

Primitive/Rustic Campsites - Means an area that consists of individual remote campsites accessible only by foot or water.

Principal Use or Structure – The predominant use of the land or buildings as distinguished from subordinate or accessory uses.

Private Street – A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

Property Line – The boundary line of the area over which the entity applying for a permit has legal control. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

Protective Covenants – Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development that would tend to impair stability of values.

Public Conservation Lands – Land owned in fee title by State or Federal agencies and managed specifically for (grassland) conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this Ordinance, 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.

Public Park – Any public land available for recreational, educational, cultural, or aesthetics use. This area is open to the general public and reserved for recreational, educational or scenic purposes such as, but not limited to: Memorial Park, Oraas Park, Stone Hill Park, Timm Park, and Upper Sioux Agency State Park. **This does not include Wildlife Management Areas owned or operated by the DNR, US Fish and Wildlife or the Department of the Interior.

Public Water - Any waters as defined in Minnesota Statutes Chapter 103G.

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

Reach - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In the urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

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

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.

Recreation, Commercial – Includes all uses relating to outdoor recreation uses such as campgrounds, hunting and shooting facilities, shooting ranges, driving ranges, golf courses that are publicly or privately owned and operated with the intention of earning a profit by providing entertainment for the public. The definition does not include movie theaters, bowling alleys, or lodging facilities.

Recreational Camping Area – shall have the meaning given to it in Minn. Stat.327.14, Sub.8; or any successor statutes.

Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

Regulatory Flood Protection Elevation - Shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments in the flood plain that result from designation of a floodway.

Right -of-Way - The publicly dedicated land along a road or highway corridor, a portion of which is covered by the road or highway pavement.

Residential planned unit development - a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

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, service road, place or however otherwise designated.

Rotor diameter – The diameter of the circle described by the moving rotor blades.

Rural Preservation Management District – as described in Section VI of the Yellow Medicine County Land and Related Resource Management Ordinance.

Salvage Yard – An area where used, scrap, waste, discarded, reclaimable or salvaged materials, except garbage, are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to scrap iron and other metals, unlicensed or inoperable vehicle(s), white goods, paper, rags, rubber products, bottles, and used building materials.

Sanitary Landfill - A land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying cover material at the end of each operating day, or at intervals as may be required by the Agency.

Screened - Means when a structure is built or placed on a lot or vegetation is planted such that when the structure is built it is visually inconspicuous as viewed from the river, road or adjacent property, during the summer months. Visually inconspicuous means difficult to see or not readily noticeable in summer months as viewed from the river, road or adjacent property.

SDS (State Disposal System) Permit – A permit issued by the state to any facility that does not meet the criteria for an NPDES permit or Interim Permit that has a pollution hazard. SDS permits may also be issued for proposed, construction and operation of a new technology and may be processed in accordance with parts 7001.0040; 7001.0050; 7001.0100, subparts 4 and 5; and 7001.0110.

Seasonal High Water Table - The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.

Selective Cutting - Means the removal of single scattered trees.

Semipublic Use – the use of a land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive Resource Management – The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Service Road - A minor street which is parallel and adjacent to an Arterial Street or Highway and which provides access to abutting properties and protection from through traffic.

Setback - The minimum horizontal distance between building, structure, sewage treatment system, or other facility and a ordinary high water level, bluff line, road or highway, or property line.

Sewage – Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains

associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

Sewage Treatment System - Means any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems and drain fields.

Sewered – Any lake, river, or stream or portion thereof that is served by a public wastewater treatment system.

Shooting Range, Public or Private - An area or facility that is designed or operated primarily for the use of firearms, archery or other weapons, and that is operated as a business, operated by a private individual, club or association, or operated by a government entity. An incidental target practice area on private property that occasionally is used by an individual or group of individuals for the use of firearms shall not constitute a shooting range.

Shoreland - Means land located within the following distances from public waters (1) 1,000 feet from the normal high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

Shore Impact Zone – Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland Setback - The minimum horizontal distance between a structure and the normal high water mark.

Sign - A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

Sign, Advertising - A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; a billboard.

Sign, Business - A sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

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.

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.

Sign, Pylon - A free standing sign erected upon a single pylon or post which is in excess of ten

(10) feet in height with the sign mounted on the top thereof.

Sign, Rotating - A sign which revolves or rotates on its axis by mechanical means.

Sign, Surface Area of- The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

Significant historic site - any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Subdivision 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Slope – The amount of a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

Soil and Water Conservation Structures - Include water reservoirs, windbreaks and other measures which conform with the management practices encouraged by the Natural Resource Conservation Service, Farm Service Agency, Soil and Water Conservation District and other agencies for the protection of farmland against erosion and public waters from degradation by sedimentation.

Solar Energy Systems, Accessory – 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 directed, connected or designed to serve the energy needs of the primary use.

Solar Farms – A solar array composed of multiple solar panels on ground-mounted rack or poles, which is the primary land use for the parcel on which it is located.

Solid Manure – Manure consisting of greater than 15% solids.

Special Public Uses - Include municipal sewer and water facilities, churches, cemeteries, electrical power sub-stations and similar public uses, but not public or parochial schools, libraries, nursing homes, hospitals, or municipal buildings.

Specified Anatomical Areas – Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered. Human Male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities –

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

SSTS – Subsurface sewage treatment system including an ISTS, MSTS or LSTS.

State – State of Minnesota

Steep Slope – Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

Street – A public right-of-way that affords primary means of access to abutting property and shall also include avenue, highway, or roadway.

Street, Collector – A street that serves or is designed to serve as a traffic way for a neighborhood or to move traffic from local roads to secondary roads.

Street, Cul-de-sac – A street turn around with only one outlet.

Street, Intermediate or Minor Arterial – A street that serves, or is designed to serve, heavy flows or traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Street, Local – A street intended to serve primarily as an access to abutting properties.

Street, Major or Arterial – A street that serves, or is designed to serve, heavy flows of traffic between communities and/or other heavy traffic generating areas.

Street Pavement – The wearing or exposed surface of the roadway used by vehicular traffic.

Street, Rural Design – A street without curb and gutter having either paved or gravel shoulders.

Street, Service – Marginal access street or otherwise designated as a minor street, which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

Street, Urban Design – A street that incorporates either concrete or bituminous curb and gutter.

Street Width – The shortest distance between the lines delineating the roadway including shoulders or parking lanes or a street. On urban designed streets, it is face to face of curbs.

Structure - Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, detached garages, cabins, manufactured homes and decks. Exceptions are aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

Subdivider- Is an individual, firm, association, syndicate, 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 Ordinance.

Subdivision - The division or redivision of a lot, tract or parcel of land regardless of how it is to be used into two or more lots either by plat or by metes and bounds description, or the division or redivision of land involving dedication of a new park, playground, street, or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water or other public improvements of facilities, provided, however, that the following classes shall be exempt:

1. The division of land for agricultural purposes into parcels greater than five (5) acres where no new streets, roads or other right-of-way are involved.
2. The division of a lot for the purpose of attachment to contiguous lots provided no residual plat is left unattended.

(see also definition in Section XVIII – Subdivision Regulations)

Substandard Shoreland Use - Any use of shoreland existing prior to the date of enactment of any County Ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks or other dimensional standards of this Ordinance.

Substandard Use - Means any use within the land use district existing prior to the date of enactment

of this Ordinance which is permitted with the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of the Ordinance.

Substations – Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.

Surface water-oriented commercial use – The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Survey, Land – The process of determining boundaries and areas of tracts of land. Also called property survey or boundary survey.

Surveyor – A land surveyor licensed under Minnesota state laws.

Toe of the Bluff – The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from a gentler to a steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with the average slope exceeding 18 percent.

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 bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Tract – Any parcel, lot or area of land which is individually assessed for tax purposes and which has its' own tax identification number.

Transmission Towers/antenna – Any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts, on which transmitting and/or receiving equipment is located.

Travel Trailer - A vehicle without motor power used or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" shall include camp car, camp bus, camper and house car. A permanent foundation shall not change its character unless the entire structure is erected in accordance with the approved Building Code.

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

Level A: $\text{cBOD}_5 \leq 15 \text{ mg/L}$; $\text{TSS} \leq 15 \text{ mg/L}$; fecal coliforms $\leq 1,000/100 \text{ mL}$.
Level B: $\text{cBOD}_5 \leq 25 \text{ mg/L}$; $\text{TSS} \leq 30 \text{ mg/L}$; fecal coliforms $\leq 10,000/100 \text{ mL}$.
Level C: $\text{cBOD}_5 \leq 125 \text{ mg/L}$; $\text{TSS} \leq 80 \text{ mg/L}$; fecal coliforms N/A.

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

Type II System – An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

Type III System – A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV System – An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

Type V System – An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

Unincorporated Area - The areas outside a city, village, or borough.

Use - The purpose of which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Use, Accessory - A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Variance - Any modification or variation of official controls where it is determined that, by reason or exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Vicinity Map – A map drawn to comparatively small scale that shows the area proposed to be platted in relation to known geographical features, e.g. town centers, lakes, roads.

Water Appropriations Permit – A permit required by the DNR for the appropriation of waters of the State, such as, but not limited to: withdrawal of water for any use at a rate greater than 10,000 gallons per day or more than five million gallons per year.

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

Watershed Management or Flood Control Structure - Means a dam, floodwall, wingdam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management" or "flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner of Natural Resources.

WECS – Wind Energy Conversion System – A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy.

Wetland – Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands shall have hydric soils, predominantly hydric vegetation, and display wetland hydrology.

Wildlife Management Areas – Public lands for the purpose of reclaiming, creating, and managing upland and wetland habitat as defined by the Natural Resource Conservation Service. These areas are primarily owned and operated by the DNR, US Fish and Wildlife, and the Department of the Interior.

Wind Turbine – A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

Yard – The space on the same lot with a building or other structure open and unobstructed from ground to sky.

Yard, Front – A yard extending across the full width of the lot between the front line and the nearest line of the principal building.

Yard, Rear – A yard extending across the full width of the lot between the rear lot line and the nearest line of the principal building.

Yard, Side – A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the principal building.

Yellow Medicine County Comprehensive Plan - Means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community

facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

Zoning Administrator – The duly appointed person charged with the enforcement of this Ordinance.

Section II: Floodplain Management Ordinance

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE2

SECTION 2.0 GENERAL PROVISIONS2

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS5

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS5

SECTION 5.0 FLOODWAY DISTRICT (FW)6

SECTION 6.0 FLOOD FRINGE DISTRICT (FF)8

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT (GF) 10

SECTION 8.0 SUBDIVISION STANDARDS 11

SECTION 9.0 RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES.. 11

SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES. 12

SECTION 11.0 ADMINISTRATION 12

SECTION 12.0 NONCONFORMITIES 15

SECTION 13.0 VIOLATIONS AND PENALTIES 15

SECTION 14.0 AMENDMENTS 16

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

- 1.1 **Statutory Authorization:** This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, Parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations, Parts 59 -78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapters 394.
- 1.2 **Purpose:**
 - 1.21 This ordinance regulates development in the flood hazard areas of Yellow Medicine County. These flood hazard areas are subject to periodic inundation, which may result in loss of life and 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. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
 - 1.22 This ordinance is adopted to maintain the community's eligibility in the National Flood Insurance Program.
 - 1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SECTION 2.0 GENERAL PROVISIONS

- 2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of Yellow Medicine County within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts and further detailed in Sections 2.2 and 3.1.
 - 2.11 The Floodway, Flood Fringe or General Floodplain Districts are overlay districts superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
 - 2.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the base flood elevations shall be the governing factor in locating the outer boundaries of the 1-percent annual chance floodplain.
 - 2.13 The regulatory limits of the district boundaries shall be further extended outward based on the horizontal extension of the regulatory flood protection elevation (RFPE), defined in Section 2.6.
 - 2.14 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
- 2.2 **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Yellow Medicine County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map Index, both dated October 7, 2021, and prepared by the Federal Emergency Management Agency. These materials are on file in the Yellow Medicine County Land and Resource Management Office.
- 2.3 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.4 **Warning and Disclaimer of Liability:** This ordinance 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 ordinance does not create liability on the part of Yellow Medicine County or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.5 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

- 2.6 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.611 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.612 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with the term “regional flood” used in Minnesota Rules, Part 6120.5000.
- 2.613 Base Flood Elevation (BFE) – The elevation of the base flood or one-percent annual chance flood. The term “base flood elevation” is used in the flood insurance study.
- 2.614 Basement – 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.
- 2.615 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist, and
 - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.616 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 2.617 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.618 Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.619 Farm Fence – An open type of fence of posts and horizontally run wire, further defined by Minnesota Statutes, Section 344.02, Subd. 1(a-d), and is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
- 2.620 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.
- 2.621 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.622 Flood Fringe – the portion of the one - percent annual chance floodplain located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study.
- 2.623 Flood Insurance Rate Map – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 2.624 Flood Insurance Study – The study referenced in Section 2.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- 2.625 Flood Prone Area – any land susceptible to being inundated by water from any source.

- 2.626 Floodplain – the beds and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the base flood.
- 2.627 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.628 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 base flood discharge.
- 2.629 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.
- 2.630 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- 2.631 New Construction - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 2.632 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory 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.
- 2.633 Principal Use or Structure – all uses or structures that are not accessory uses or structures.
- 2.634 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.635 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.636 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the base flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- 2.637 Repetitive Loss - Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 2.638 Special Flood Hazard Area – a term used for flood insurance purposes, and synonymous with the term base flood or 1-percent annual chance floodplain.
- 2.639 Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units

or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 2.640 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, decks manufactured homes, recreational vehicles not considered travel ready as detailed in Section 10.22 of this ordinance and other similar items.
- 2.641 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 2.642 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.
- 2.7 **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of Yellow Medicine County at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into Yellow Medicine County after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.
- 2.8 **Detachments.** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Yellow Medicine County after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS

3.1 Districts:

- 3.11 Floodway District. Those areas within Zones AE delineated within floodway areas as shown on the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps adopted in Section 2.2.
- 3.12 Flood Fringe District. Those areas within Zones AE on the Flood Insurance Rate Map and Flood Boundary and Floodway Maps adopted in Section 2.2, but located outside of the floodway.
- 3.13 General Floodplain District. Those areas within Zone A areas that do not have a floodway delineated as shown on the Flood Insurance Rate Maps adopted in Section 2.2.
- 3.2 **Applicability:** Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 5 or 6 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district and the standards in Section 7.0 will apply.

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

- 4.1 Permit Required. A permit must be obtained from the Zoning Administrator to verify if a development meets all applicable standards outlined in this ordinance prior to conducting the following activities:

- 4.11 The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
 - 4.12 The construction of a dam, on-site septic system, or any fence not meeting the definition of a farm fence outlined in Section 2.6 of this ordinance.
 - 4.13 The change or extension of a nonconforming use.
 - 4.14 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - 4.15 The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - 4.16 Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement culverts and bridges), unless a public waters work permit has been obtained from the Department of Natural Resources.
 - 4.17 Any other type of “development” as defined in this ordinance.
- 4.2 Minimum Development Standards. All new development must be:
- 4.21 Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 4.22 Constructed with materials and equipment resistant to flood damage;
 - 4.23 Constructed by methods and practices that minimize flood damage;
 - 4.24 Constructed with electrical, heating, ventilation, duct work, plumbing, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
 - 4.25 reasonably safe from flooding and consistent with the need to minimize flood damage within the flood-prone area;
 - 4.26 assured to provide adequate drainage to reduce exposure to flood hazards.
 - 4.27 developed so that it is not detrimental to uses in adjoining areas.
- 4.3 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4.4 Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the flood protection elevation, floodproofed, or protected by structural measures consistent with the standards set forth herein. Furthermore, storage of materials likely to cause pollution of the waters, as defined in Minnesota Statutes, Section 115.01, if subject to flooding are prohibited unless adequate safeguards approved by the state water pollution control agency are provided.
- 4.5 Critical Facilities, as defined in Section 2.6, are to be located, so that the lowest floor is not less than two feet above the base flood elevation, or the 0.2% annual chance flood elevation, whichever is higher.

SECTION 5.0 FLOODWAY DISTRICT (FW)

- 5.1 **Permitted Uses:** The following uses, subject to the standards set forth in Section 5.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
- 5.11 General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
 - 5.12 Loading areas, parking areas, streets, trails, airport landing strips, railroads, bridges, culverts, utility transmission lines and pipelines.

- 5.13 Open space uses, including but not limited to 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, hunting and fishing areas, and single or multiple purpose recreational trails.
 - 5.14 Residential yards, lawns, gardens, parking areas, and play areas, provided these uses do not include associated accessory structures.
 - 5.15 Grading or land alterations associated with stabilization projects.
- 5.2 **Standards for Floodway Permitted Uses.** In addition to the applicable standards outlined in Sections 4.2:
- 5.21 The use must have a low flood damage potential.
 - 5.22 The use must not involve structures.
 - 5.23 The use must not obstruct flood flows, or increase velocities, stages, or flood damages, as certified by a registered professional engineer.
 - 5.24 Development that will change the course, current or cross section of protected wetlands or public waters is required to obtain a public waters work permit in accordance with Minnesota Statutes, Section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, Section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
 - 5.25 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the base flood.
- 5.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 5.4, if otherwise allowed in the underlying zoning district.
- 5.31 Structures accessory to primary uses listed in 5.11 – 5.13 above and primary uses listed in 5.32 - 5.33 below.
 - 5.32 Grading, extraction, fill and storage of soil, sand, gravel, and other materials for purposes other than stabilization projects.
 - 5.33 Marinas, boat rentals, permanent docks, piers, wharves, water control structures, and navigational facilities.
 - 5.34 Storage yards for equipment, machinery, or materials.
 - 5.35 Fences that have the potential to obstruct flood flows.
 - 5.36 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.
- 5.4 **Standards for Floodway Conditional Uses.** In addition to the applicable standards outlined in Sections 4.2, 5.2 and 11.4:
- 5.41 Fill; Storage of Materials and Equipment:
 - (a) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by the use of mulches or similar materials, with permanent vegetative cover established as soon as possible. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (b) Temporary placement of fill, other materials, or equipment that would cause an increase to the stage of the base flood may only be allowed if Yellow Medicine County has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
 - 5.42 Accessory Structures. Accessory structures, as identified in Section 5.31, may be permitted, provided that:

- (a) Structures are not intended for human habitation;
- (b) Structures will have a low flood damage potential;
- (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
- (d) Structures must be elevated on fill or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with Section 11.22 shall be required.
- (e) As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with Section 11.22 shall be required.

5.43 A levee, dike or floodwall constructed in the floodway must not cause an increase to the base flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 6.0 FLOOD FRINGE DISTRICT (FF)

- 6.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 6.2.
- 6.2 **Standards for Flood Fringe Permitted Uses.** In addition to the applicable standards outlined in Sections 4.2:
 - 6.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation (RFPE). The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation (RFPE). Fill for residential structures must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the community.
 - 6.22 Accessory Structures. As an alternative to the fill requirements of section 6.21, any enclosed structures accessory to the uses identified in Section 6.1 must meet the following provisions:
 - (a) Accessory structures shall constitute a minimal investment not to exceed 576 square feet in size, and only be used for parking and storage.
 - (b) Accessory structures must allow for the equalization of hydrostatic pressure by accommodating for the inundation of floodwaters. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
 - 6.23 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 6.21 of this ordinance.
 - 6.24 All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
 - 6.25 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to Yellow Medicine County.
 - 6.26 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is

inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the base flood.

- 6.27 Manufactured homes and recreational vehicles must also meet the standards of Section 10 of this ordinance.
- 6.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 6.4, if otherwise allowed in the underlying zoning district(s).
- 6.31 The placement of floodproofed nonresidential basements below the regulatory flood protection elevation.
- 6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.21 of this ordinance.
- 6.33 The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 6.45.
- 6.4 **Standards for Flood Fringe Conditional Uses.** In addition to the applicable standards outlined in Sections 4.2, 6.2 and 11.4:
- 6.41 The standards for permitted uses in the flood fringe, listed in Sections 6.24 through 6.28, apply to all conditional uses.
- 6.42 Residential basements, as defined in 2.6, are not allowed below the RFPE.
- 6.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A floodproofing certification consistent with Section 11.22 shall be required.
- 6.44 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
- (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the base flood event.
- (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to Yellow Medicine County.
- (c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- 6.45 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. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:
- (a) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade, and have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.
- (b) Floodproofing certifications consistent with Section 11.22 shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT (GF)

7.1 Permitted Uses:

- 7.11 The uses listed in Section 5.0 of this ordinance, Floodway District are allowed with a permit.
- 7.12 All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 7.2 below. Section 5.0 applies if the proposed use is determined to be in the Floodway District. Section 6.0 applies if the proposed use is determined to be in the Flood Fringe District.

7.2 Procedures for Determining Floodway Boundaries and Base Flood Elevations:

- 7.21 Requirements for Detailed Studies. Developments greater than 50 lots or 5 acres, or as requested by the zoning administrator, shall be subject to a detailed study to determine the regulatory flood protection elevation and the limits of the Floodway District. The determination of the floodway and flood fringe must be consistent with accepted hydrological and hydraulic engineering standards, and must include the following components, as applicable:
 - (a) Estimate the peak discharge of the base flood.
 - (b) Calculate the water surface profile of the base flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (c) Compute the floodway necessary to convey or store the base flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless development or geographic features warrant other analysis, as approved by the Department of Natural Resources.
- 7.22 Alternative Methods. For areas where a detailed study is not available or required, the base flood elevation must be determined using best available data. Until a floodway determination can be completed, the entire floodplain must be treated as floodway, with allowable activities restricted to those identified in Sections 5.1 and 5.3.
 - (a) Development allowed in floodways (e.g. bridges, culverts, grading, filling, stabilization projects) must not cumulatively increase flood stages more than one-half foot during a base flood event, as determined by a professional engineer or by using accepted engineering practices approved by the Department of Natural Resources. A stage increase less than one-half foot must be used if increased flood damages would result.
 - (b) Development prohibited in floodways (e.g. buildings) require a floodway/flood fringe determination to verify the development is within the flood fringe. The floodway/flood fringe determination must be done by a professional engineer or utilize other accepted engineering practices approved by the Department of Natural Resources. Any such proposal must assume a one-half foot stage increase for the purposes of determining the regulatory flood protection elevation to accommodate for future cumulative impacts.
 - (c) For areas in and along lakes, wetlands, and other basins that are not affected by velocities, where the floodway has not been determined, an alternative to (a) and (b) is:
 - (1) All areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, Subd. 14 will be considered floodway, and all areas below the base flood elevation but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:
 - i. the minimum required to accommodate beach and access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require engineering analysis as provided in (a) and (b) above, whichever is applicable; and

- ii. the minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as identified by a qualified resource agency.

7.23 The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from an engineer or other expert person, or agency, including the Department of Natural Resources.

7.24 Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 5.0 and 6.0 of this ordinance.

SECTION 8.0 SUBDIVISION STANDARDS

8.1 **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

8.11 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

8.12 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the base flood has been approved by Yellow Medicine County. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

8.13 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

8.14 In the General Floodplain District, applicants must provide the information required in Section 7.2 of this ordinance to determine the base flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

SECTION 9.0 RAILROADS, ROADS, BRIDGES, AND PUBLIC AND PRIVATE UTILITIES AND SERVICE FACILITIES

9.1 **Utilities:** All utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated to the regulatory flood protection elevation (RFPE) or located and constructed to minimize or eliminate flood damage.

9.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 5.0 and 6.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these 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.

9.3 **On-site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules, Part 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules, Part 7080.2270, as amended.

SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

10.1 Manufactured Homes: Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

10.11 New and replacement manufactured homes must be elevated in compliance with Section 6 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

10.12 New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 8 of this ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.

10.2 Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

10.21 Meet the requirements for manufactured homes in Section 10.1, or

10.22 Be travel ready, meeting the following criteria:

(a) The vehicle must have a current license required for highway use.

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

(d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.2 and 6.22.

SECTION 11.0 ADMINISTRATION

11.1 Duties: A Zoning Administrator or other official must administer and enforce this ordinance.

11.2 Permit Application Requirements:

11.21 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

(a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(b) Location of fill or storage of materials in relation to the stream channel.

(c) Copies of any required municipal, county, state or federal permits or approvals.

(d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

11.22 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect as being in compliance with applicable floodproofing standards in the State Building Code. Accessory structures designed in accordance with Section 6.22 of this ordinance are exempt from certification, provided sufficient assurances are documented. A registered professional engineer is required to certify that any development in established floodways must not cause any increase in flood elevations, and development in the general

floodplain district will not cumulatively increase flood stages more than one-half foot, or less if increased damages would result.

- 11.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- 11.24 Recordkeeping of Certifications and As-Built Documentation. The Zoning Administrator must maintain records in perpetuity documenting:
- (a) all certifications referenced in Section 11.22 of this ordinance as applicable.
 - (b) Elevations complying with Section 6.21 of this ordinance. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.
- 11.25 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 11.26 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

11.3 Variances:

- 11.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Section XIII, Subd. 6 of the zoning ordinance.
- 11.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 11.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances may only be issued by a community upon:
 - (1) a showing of good and sufficient cause,
 - (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 11.34 Flood Insurance Notice. The Zoning Administrator must 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 base flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

11.35 General Considerations. The community may consider the following variables, and consider imposing conditions on variances and conditional uses:

- (a) The potential 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;
- (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (e) The importance of the services to be provided by the proposed use to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (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 Land Use Plan and flood plain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

11.36 Submittal of Hearing Notices to the Department of Natural Resources. The Zoning Administrator must submit hearing notices for proposed variances to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

11.37 Submittal of Final Decisions to the Department of Natural Resources. A copy of all decisions granting variances must be forwarded to the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

11.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

11.4 Conditional Uses:

11.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section XIII, Subd. 5 of the zoning ordinance.

11.42 Factors Used in Decision-Making. In passing upon conditional use applications, Yellow Medicine County must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 11.35 of this ordinance.

11.43 Conditions Attached to Conditional Use Permits. In addition to the standards identified in Sections 5.4 and 6.4, Yellow Medicine County may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (a) Limitations on period of use, occupancy, and operation.
- (b) Imposition of operational controls, sureties, and deed restrictions.

(c) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

11.44 Submittal of Hearing Notices to the Department of Natural Resources. The Zoning Administrator must submit hearing notices for proposed conditional uses to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

11.45 Submittal of Final Decisions to the Department of Natural Resources. A copy of all decisions granting conditional uses must be forwarded to the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective area hydrologist.

SECTION 12.0 NONCONFORMITIES

12.1 Continuance of Nonconformities: A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.643(b) of this ordinance, are subject to the provisions below.

12.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

12.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 12.14 below.

12.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

12.14 If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the proposed development, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance.

12.15 If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

12.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.638 of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.

SECTION 13.0 VIOLATIONS AND PENALTIES

13.1 Violation Constitutes a Misdemeanor: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

13.2 Other Lawful Action: Nothing in this ordinance restricts Yellow Medicine County from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

13.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section XIII, Subd. 9 of the zoning ordinance. In responding to a suspected ordinance violation, Yellow Medicine County may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. Yellow Medicine County must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 14.0 AMENDMENTS

14.1 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.

14.2 **Required Approval:** All amendments to this ordinance must be submitted to and approved by the Department of Natural Resources prior to adoption.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Yellow Medicine County Board

This _____ of _____, _____
(Day) (Month) (Year)

Attest: _____, County Board Chairperson
(Name of Elected Official)

Attest: _____, County Administrator
(Name of Community Official)

Stamp with Community Seal:

SECTION III: SHORELAND MANAGEMENT ORDINANCE

<u>SECTIONS</u>		<u>PAGE</u>
Subdivision 1.0	Statutory Authorization & Policy	1
Subdivision 2.0	General Provisions & Definitions	1
Subdivision 3.0	Administration	8
Subdivision 4.0	Shoreland Classifications & Land Use Districts	11
Subdivision 5.0	Special Land Use Provisions	14
Subdivision 6.0	Dimensional and General Performance Standards	16
Subdivision 7.0	Performance Standards for Public and Private Facilities	19
Subdivision 8.0	Vegetation and Land Alterations	21
Subdivision 9.0	Subdivision/Platting Provisions	25

Subdivision 1.0 – Statutory Authorization and Policy

1.1 Statutory Authorization

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

1.2 Policy

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Yellow Medicine County.

Subdivision 2.0 - General Provisions and Definitions

2.1 Jurisdiction

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Subdivision 4.1 of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 25 acres in size in unincorporated areas needs to be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

2.2 Enforcement

The Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Subdivision 3.2 of this ordinance.

2.3 Severability

If any subdivision, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

2.4 Abrogation and Greater Restrictions

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

2.5 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning as they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

2.511 Accessory structure or facility. Any building or improvement subordinate to a principal use.

2.512 Animal Feedlot. A facility as defined by Minnesota Rules, part 7020.0300.

2.513 Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high water level;
- (3) 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 percent or greater (see Figure 1); except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2); and
- (4) The slope must drain toward the waterbody.

Figure 1. Illustration of Bluff

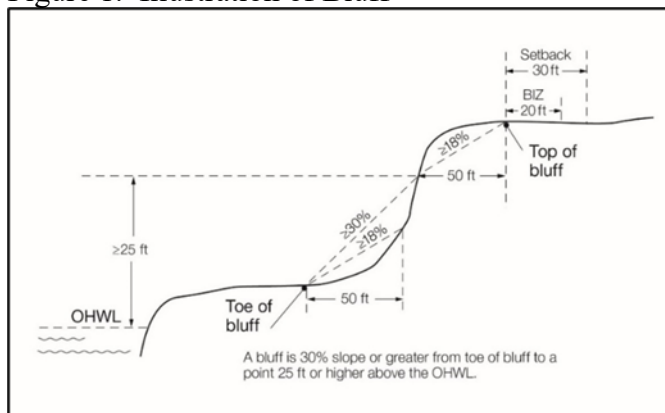
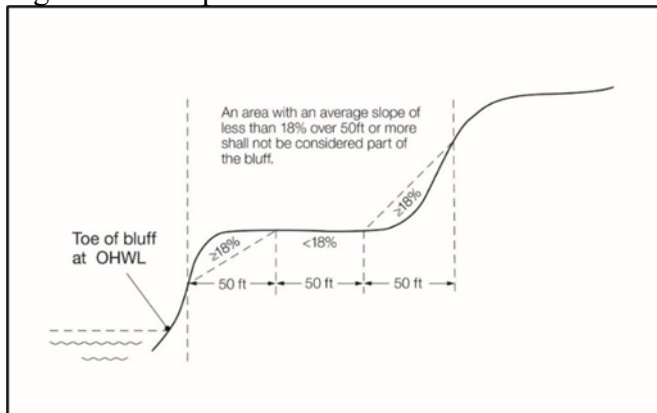


Figure 2. Exception to Bluff



2.514 Bluff impact zone. a bluff and land located within 20 feet of the top of a bluff.

2.515 Bluff, Toe of. The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

2.516 Bluff, Top of. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

2.517 Boathouse. A facility as defined by Minnesota Statutes, Section 103G.245.

2.518 Buffer. A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

2.519 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.

2.520 Commercial planned unit developments. Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

2.521 Commercial use. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

2.522 Commissioner. The Commissioner of the Department of Natural Resources.

2.523 Conditional use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing

neighborhood.

2.524 Controlled access lot. A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

2.525 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

2.526 Duplex, triplex, and quad. A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

2.527 Dwelling site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

2.528 Dwelling unit. Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

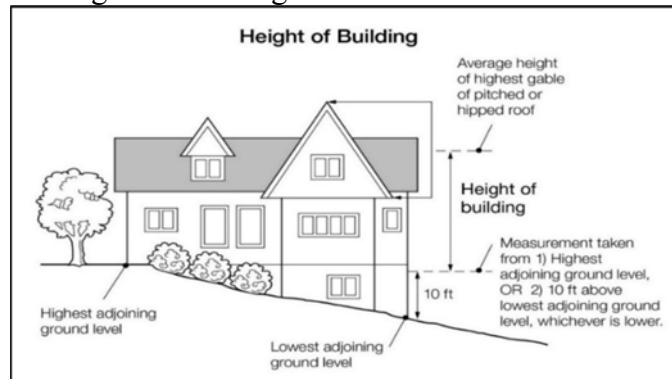
2.529 Extractive use. The use of land for surface or subsurface removal of sand, gravel, clay, topsoil, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Subdivisions 93.44 to 93.51.

2.530 Forest land conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

2.531 Guest cottage. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

2.532 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 a flat roof or average height of the highest gable of a pitched or hipped roof. (See Figure 3).

Figure 3. Height of Building



2.533 Industrial use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

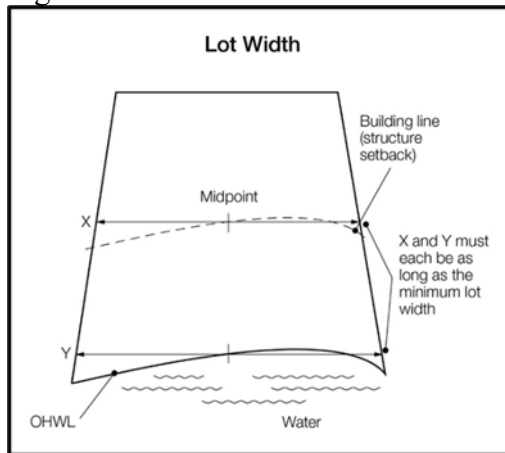
2.534 Intensive vegetation clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

2.535 Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

2.536 Lot width. The minimum distance between:

- A. Side lot lines measured at the midpoint of the building line; and
- B. Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



2.537 Metallic minerals and peat. “metallic minerals and peat” has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.

2.538 Nonconformity. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

2.539 Ordinary high water level. The boundary of public waters and wetlands, and shall be an election delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

2.540 Planned Unit Development. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

2.541 Public waters. Any water as defined in Minnesota Statutes, Subdivision 103G.005, subdivisions 15, 15a.

2.542 Residential planned unit development. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

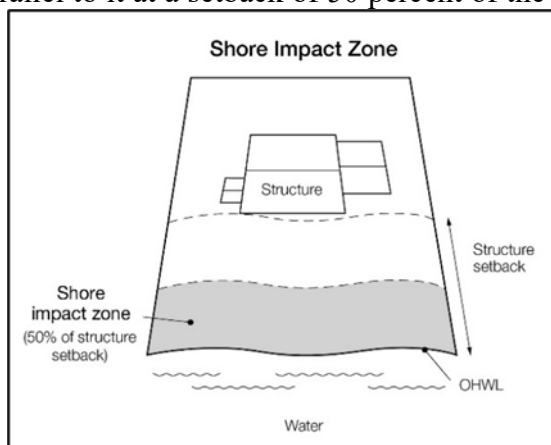
2.543 Resort. "Resort" has the meaning in Minnesota Statute, Section 103F.227

2.544 Semipublic use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

2.545 Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

2.546 Sewage treatment system. "Sewage treatment system" Has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82

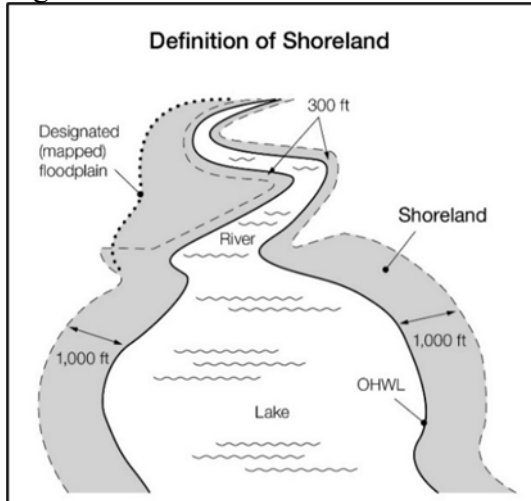
2.547 Shore impact zone. land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback. Figure 5: Shore Impact Zone



2.548 Shoreland. "Shoreland" means land located within the following distances from public waters:

- A. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and
- B. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.

Figure 6: Definition of Shoreland



2.549 Shore recreation facilities. Swimming areas, docks, watercraft mooring areas and launching ramps and other recreation facilities.

2.550 Significant historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Subdivision 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

2.551 Steep Slope Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

2.552 Structure. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

2.553 Subdivision. Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

2.554 Variance. "Variance" means the same as that defined in Minnesota Statutes, Section 394.27, Subd. 7

2.555 Water-oriented accessory structure or facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

2.556 Water-dependent use. The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

2.557 Wetland. "Wetland" Has the meaning given under Minnesota Rule, part 8420.0111.

Subdivision 3.0 – Administration

3.1 **Purpose.** The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

3.2 Permits

3.21 A permit is required for the construction of building or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 8.3 of this Ordinance.

3.22 A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

3.3 **Application materials.** Application for permits and other zoning applications such as variances shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so the that the Zoning Administrator can evaluate how the application complies with the provisions of this Ordinance.

3.4 **Certificate of Zoning Compliance.** The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Subdivision 3.2 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Subdivision 2.2 of this ordinance.

3.5 **Variations.** Variations may only be granted in accordance with Minnesota Statutes, Section 394.27 and are subject to the following:

3.51 A variation may not circumvent the general purposes and intent of this ordinance, and;

3.52 For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700. Subp.3, is required for variation approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

3.6 **Conditional Uses.** All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

3.61 The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

3.62 The visibility of structures and other facilities as viewed from public waters is limited;

3.63 There is adequate water supply and on-site sewage treatment; and

3.64 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

3.7 **Mitigation.**

3.71 In evaluating all variations, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

A. Advanced storm water runoff management treatment;

B. Reducing impervious surfaces;

C. Increasing setbacks from the ordinary high water level;

D. Restoration of wetlands;

E. Limiting vegetation removal and/or riparian vegetation restoration;

F. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and

G. Other conditions the zoning authority deems necessary.

3.72 In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

3.8 **Nonconformities.**

3.81 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Sections 394.36 Subd. 5 and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

3.82 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 5.0 to 8.0 of this ordinance. Any deviation from these requirements must be authorized by a variance.

3.9 **Notifications to the Department of Natural Resources**

3.91 All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The Zoning Administrator will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

3.92 All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

3.93 All approved ordinance amendments and subdivision/plats, and final decisions approving 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. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3.94 Any request to change the shoreland management classification of public waters within Yellow Medicine County must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution

and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

3.95 Any request to reduce the boundaries of shorelands of public waters within Yellow Medicine County must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shoreland may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

3.10 **Mandatory EAW.** An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29 and 36a.

Subdivision 4.0 Shoreland Classification System and Land Use Districts

4.1 Shoreland Classification System

4.11 Purpose. To ensure that shoreland development on the public waters of Yellow Medicine County is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

4.12 The shoreland area for the waterbodies listed in Subdivisions 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map shall be as defined in Subdivision 2.747 and are shown on the Official Zoning Map.

4.13 Lakes

A. Natural Environment Lakes

<u>Name</u>	<u>Township</u>	<u>Identification #</u>
Miller Lake	Omro	87-102
Victors Slough	Fortier	87-116
School Grove	Posen	42-2
Lone Tree	Sioux Agency	87-13
Kvistad	Sioux Agency	87-15
Tyson	Posen	87-19
Wood Lake	Wood Lake	87-30
Mud	Wood Lake	87-32
Unnamed	Fortier	41-109
Lake Louie	Friendship	87-67
Curtis	Echo & Posen	87-16
Timm	Posen	87-17

4.14 Rivers and Streams

A. Agricultural Rivers

<u>Name</u>	<u>Beginning In</u>	<u>Ending In</u>
Lac Qui Parle	Border of Yellow Medicine and Lincoln	Border of Yellow Medicine and Lac Qui Parle Counties
Yellow Medicine	Border of Yellow Medicine and Lyon	Confluency with Minnesota R. Subdivision 28, T115N, R38W

B. All public rivers and streams, shown on the Protected Waters Inventory Map for Yellow Medicine County, a copy of which is hereby adopted by reference, not given a classification in Subdivision 4.14 A. above, shall be considered a "Tributary".

4.2 Land Uses

4.21 Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

4.22 Shoreland district land uses listed in Section 4.23 and 4.24 are regulated as:

- A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
- B. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
- C. Not permitted uses (N). These uses are prohibited.

4.23 Land uses for lake classifications:

Natural Environment Lakes

(1) Rural Preservation Management District

- Forest management P
- Forest land conversion C
- Agricultural: cropland and pasture P
- Agricultural feedlots: Expansion or Resumption of existing C
- Agricultural feedlots: new N
- Parks & historic sites C

-Extractive use	C
-Single residential	C
-Duplex, triplex, quad residential	N
-Residential PUD	N
-Commercial	C
-Solar Power Facilities	C
-Public, semipublic	C
-Industrial	N
-Mining of metallic minerals and peat	P

4.24 Land uses for river and stream classifications:

Agricultural Rivers:

-Single residential	C
-Duplex, triplex, quad residential	N
-Residential PUD	N
-Commercial	C
-Solar Power Facilities	C
-Parks and historic sites	C
-Public, semipublic	C
-Industrial	N
-Agricultural: cropland and pasture	P
-Agricultural feedlots: new	N
-Agricultural feedlots: expansion or resumption of existing	C
-Forest management	P
-Forest land conversion	C
-Extractive Use	C
-Mining of metallic minerals and peat	P

Subdivision 5.0 Special Land Use Provisins

5.1 Commercial, Industrial, Public, and Semipublic Use Standards.

5.11 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

- A. The use complies with provisions of Section 7.0
- B. The use is designed to incorporate topographic and vegetative screening of parking areas and structures.
- C. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be

- the minimum size necessary to meet the need; and
- D. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
- (1) Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
 - (2) Signs placed within the shore impact zone are:
 - a. No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - b. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters;
 - (3) Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- 5.12 Commercial, industrial, public and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming, summer, leaf-on conditions.

5.2 Agricultural Use Standards

- 5.21 Buffers
- 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 permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.
- 5.22 New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional use and must meet the following standards:
- A. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020.
 - B. Feedlots must not further encroach into the existing ordinary high

- water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and
- C. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

5.3 Forest Management Standards

- 5.31 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources; Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
- 5.32 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

5.4 Extractive Use Standards

- 5.41 Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:
 - A. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;
 - B. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
 - C. Clearly explain how the site will be rehabilitated after extractive activities end.

- 5.5 **Metallic Mining Standards.** Mining of metallic minerals and peat is a permitted use provide the provisions of Minnesota Statutes, Section 93.44 to 93.51, are satisfied.

Subdivision 6.0 Dimensional and General Performance Standards

- 6.1 **Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.

6.2 Lot Area and Width Standards.

- 6.21 Sewered and Unsewered Lake. All lots for dwellings shall consist of a minimum of 3 acres.
- 6.22 River/Stream. All lots for dwellings shall consist of a minimum of 3 acres. Exception: Those dwellings within the Minnesota River Management

District shall comply as required.

6.3 Special Residential Lot Provisions.

6.31 Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

- A. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;
- B. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

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

- C. The lot must be jointly owned by all purchasers of lots in the subdivisions or by all purchasers of nonriparian lots in the subdivision who are provide riparian access rights on the access lot, and:
- D. Covenants or other equally effective legal instruments must be developed that:
 - (1) Specify which lot owners have authority to use the access lot;
 - (2) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
 - (3) Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;
 - (4) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
 - (5) Require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

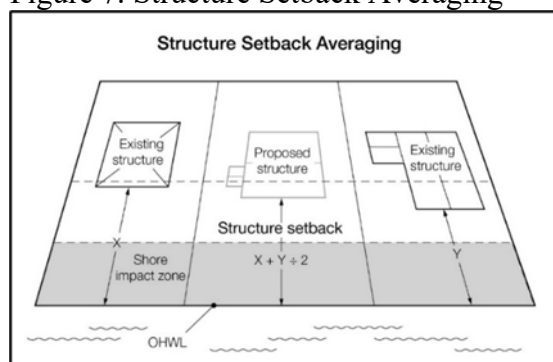
6.4 Placement, Design and Height of Structures

6.41 OHWL Setback for Structures and Sewage Treatment Systems. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. The structure setback standards for sewer properties can only be used if publicly owned sewer system service is available.

Waterbody Classification	Structures with <u>No Sewer</u>	Structures with <u>Sewer</u>	Sewage Treatment Systems
Natural Environment Lakes	150	150	150
Agriculture, Urban, & Tributary Rivers	100	50	75

- A. OHWL Setbacks. Structures and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL.
- B. Setback averaging. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone (see Figure 7).

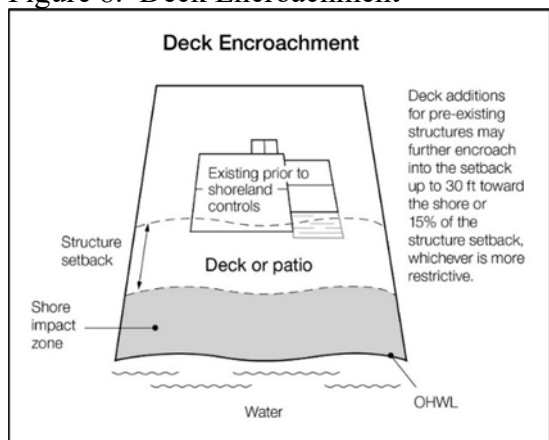
Figure 7. Structure Setback Averaging



- C. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:
- (1) The structure existed on the date the structure setbacks were established.

- (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
- (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OWHL, whichever is more restrictive; and
- (4) The deck is constructed primarily of wood, and is not roofed or screened (see Figure 8).

Figure 8. Deck Encroachment



D. Additional Structure Setbacks. Structures must also meet the following setbacks, regardless of the classification of the waterbody:

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

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

6.42 Methods for placement.

- (1) In addition to the lowest floor, all service utilities must be elevated or water-

tight to the elevation determined in part A.

- (2) If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.

- 6.43 Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

6.5 Water supply and Sewage Treatment.

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

- 6.52 Sewage Treatment. Any premises used for human occupancy must be connected to a publicly owned sewer system, where available, or comply with Minnesota Rules, Chapters 7080-7081.

Subdivision 7.0 Performance Standards For Public and Private Facilities

- 7.1 Placement and design of Roads, Driveways, and Parking Areas.** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

- 7.11 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- 7.12 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- 7.13 Private facilities must comply with the grading and filling provisions of Section 8.3 of this ordinance; and
- 7.14 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they 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.

7.2 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, lifts, and landings must meet the following design requirements:

- 7.21 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- 7.22 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-space recreational uses, and planned unit developments;
- 7.23 Canopies or roofs are not allowed on stairways, lifts, or landings;
- 7.24 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;
- 7.25 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
- 7.26 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items 7.21 to 7.25 and the requirements of Minnesota Rules, Chapter 1341

7.3 Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if this water-oriented accessory structure complies with the following provisions:

- 7.31 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. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;
- 7.32 The structure or facility is not in the Bluff Impact Zone.
- 7.33 The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- 7.34 The structure is not a boathouse or boat storage structure as defined under Minnesota

Statutes, Section 103G.245;

- 7.35 The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 7.36 The roof may be used as an open-air deck with safety rails, but must not be enclosed or used as a storage area;
- 7.37 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- 7.38 As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provide the maximum width of the structure is 20 feet as measured parallel to the shoreline; and
- 7.39 Water-oriented structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

Subdivision 8.0 Vegetation and Land Alterations

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

8.2 Vegetation Management.

- 8.21 Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - A. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities.
 - B. The construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.
 - C. Forest management uses consistent with Section 5.3 of this ordinance; and
 - D. Agricultural uses consistent with Section 5.2 of this ordinance.
- 8.22 Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive vegetation clearing outside of these areas is allowed if consistent with the forest management standards in Section 5.3 of this ordinance

- 8.23 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
- A. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - B. existing shading of water surfaces is preserved;
 - C. Cutting debris or slash shall be scattered and not mounded on the ground; and
 - D. Perennial ground cover is retained.
- 8.24 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
- 8.25 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

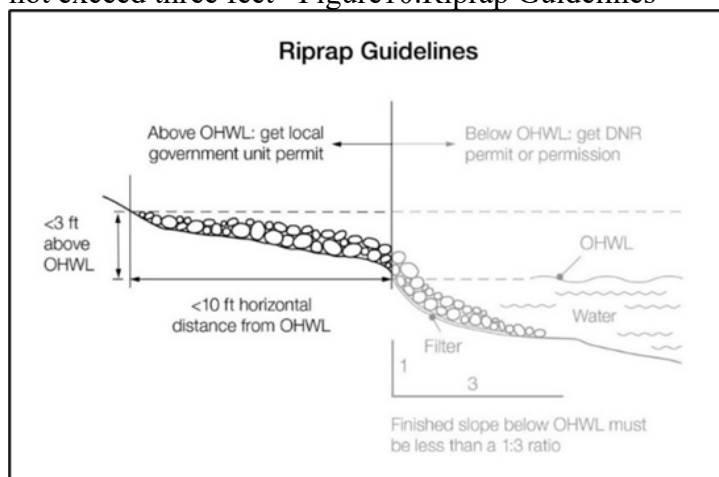
8.3 Grading and Filling.

- 8.31 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.
- 8.32 Permit Requirements.
- A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards, in Section 8.33 of this ordinance must be incorporated into the permit.
 - B. For all other work, including driveways not part of another permit, a grading and filling permit will be required for:
 - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- 8.33 Grading, filling and excavation activities must meet the following standards:
- A. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the

DNR or US Army Corp of Engineers;

B. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:

- (1) Limiting the amount and time of bare ground exposure.
- (2) Using temporary ground covers such as mulches or similar materials.
- (3) Establishing permanent vegetative cover as soon as possible.
- (4) Using sediment traps, vegetated buffer strips or other appropriate techniques.
- (5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district.
- (6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (7) Fill or excavated material must not be placed in bluff impact zones;
- (8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;
- (9) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- (10) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:
 - (a) the finished slope does not exceed three feet horizontal to one-foot vertical;
 - (b) the landward extent of the riprap is within ten feet of the ordinary high water level; and
 - (c) the height of the riprap above the ordinary high water level does not exceed three feet



- 8.34 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

8.4 Stormwater Management.

8.41 General Standards:

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

8.42 Specific Standards:

- A. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- C. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

Subdivision 9.0 Subdivision/Platting Provisions

9.1 **Purpose.** To ensure that new development minimizes impacts to shoreland resourced and is safe and functional.

9.2 **Land suitability.** Each lot created, through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the

subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

9.3 Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

9.4 Water and Sewer Design Standards.

9.41 A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080-7081 must be provided for every lot.

9.42 Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, part 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

9.43 Lots that would require use of holding tanks are prohibited.

9.5 Information requirements:

9.51 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

9.52 The surface water features required in Minnesota Statutes, Section 505.021, Subd.1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;

9.53 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

9.54 Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

9.55 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

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

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

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

9.8 Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 6.33 of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Yellow Medicine County Board

This _____ of _____, _____
(Day) (Month) (Year)

Attest: _____, County Board Chairperson
(Name of Elected Official)

Attest: _____, County Administrator
(Name of Community Official)

Stamp with Community Seal:

SECTION IV - MINNESOTA RIVER MANAGEMENT DISTRICT (MR)

Subdivision 1.0 District's Boundaries

The Minnesota River Management District includes those lands that are illustrated by Official Ordinance Map #3 and are identified on plates 2 through 7 of the "Management Plan for the Minnesota River" and legally described in MN Rules, Part 6105.1290 which accompanies and is made part of this Ordinance. This Minnesota River Management District is land within Yellow Medicine County that borders the Minnesota River where it is essential to control bluffland and riverland development in order to protect and preserve the outstanding scenic, recreational, natural, historical and scientific values such a river system has for the State of Minnesota. Within the Minnesota River Management District the land is divided into two types of Districts: that portion which is designated Scenic and that portion which is designated Recreational in terms of future development and use. The two Districts are geographically identified below:

1.1_ Scenic District

The land within the Minnesota River Management District from the Lac Qui Parle County line to the U.S. Highway 212 bridge entering the City of Montevideo; and, from the Minnesota Falls Dam located near Granite Falls to the Redwood County line.

1.2 Recreational Districts

That land within the Minnesota River Management District from the U.S. Highway 212 bridge entering the City of Montevideo to the Minnesota Falls Dam near Granite Falls.

In case of conflict between a Provision of the Minnesota Wild, Scenic, and Recreational Rivers Statewide Standards and Criteria and some other law of this state or provisions of existing ordinances, the more protective provision shall apply.

The following Sections describe the permitted and conditional uses and standards allowed within the Minnesota River Management District. ALL USES NOT LISTED AS PERMITTED OR CONDITIONAL USES SHALL NOT BE ALLOWED WITHIN THE SCENIC OR RECREATIONAL DISTRICT.

Subdivision 2.0 Scenic and Recreational Districts of the Minnesota River Management District

2.1 Permitted and Conditional Uses

In the following table of uses: P means Permitted Use and C means Conditional Use. Certain of the following uses are subject to the Standards and Sanitary Provisions of Section XII and XIV. All of the following uses are subject to the VEGETATIVE CUTTING PROVISIONS of Section IV, Subdivision 2.0 (2.4).

LAND USE DISTRICTS

	<u>Scenic District</u>	<u>Recreational District</u>
Governmental campgrounds, subject to management plan specifications	P	P
Private campgrounds, subject to management plan specifications	C	C
Public accesses, road access type with boat launching facilities subject to management plan specifications	P	P
Public access, trail access type, subject to management plan specifications	P	P
Temporary docks	C	P
Other governmental open space recreational uses, subject to management plan specifications	P	P
Other private open space recreational uses, subject to management plan specifications	C	C
Agricultural uses	P	P
Single family residential uses	P	P
Forestry uses	P	P
Essential services	P	P
Sewage disposal systems	P	P
Private roads and minor public streets	P	P
Signs approved by federal, state, or	P	P

local government which are necessary for public health and safety and signs indicating areas that are available or not available for public use

Signs not visible from the river	P	P
Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads	P	P
Home occupations	C	C
Underground mining that does not involve surface excavation in the land use district	C	C
Extractive mining of sand, gravel, bentonite, topsoil, and clay	C	C
Utility transmission power lines and pipelines, subject to the provisions of Section IV, Subdivision 2.0(2.6)	C	C
Public roads, subject to the provisions in Section IV, Subdivision 2.0(2.7)	C	C

ALL USES NOT LISTED AS PERMITTED OR CONDITIONAL USES SHALL NOT BE ALLOWED WITHIN THE APPLICABLE LAND USE DISTRICTS.

Standards for Scenic and Recreational Districts

The following chart sets forth the minimum area, setbacks and other requirements of each District.

	<u>Scenic District</u>	<u>Recreational District</u>
Minimum lot size above ordinary high water level	4 acres	2 acres
Lot width at building line	250'	200'

Lot width at ordinary high water level	250'	200'
Building setback from ordinary high water level	150'	100'
Building setback from bluffline	30'	20'
On site sewage treatment system setback from ordinary high water level	100'	75'
Maximum structure height (with the exception of non-residential agricultural buildings)	35'	35'
Controlled vegetative cutting area (see Section VI, Subdivision 2.0(2.4))		
- Setback from ordinary high water level	150'	100'
- Setback from bluffline	30'	20'

Road setbacks

Reference Shoreland Rules

- a. No structure shall be placed on any slope greater than 13% (13 feet vertical rise in 100 feet horizontal distance) unless such structures can be screened and sewage disposal system facilities can be installed so as to comply with the Sanitary Provisions of Section XII, Subdivision 1.0.
- b. No structures shall be placed in any floodway. Structures proposed within a flood plain shall be consistent with the Flood Plain Management District's Standards and the Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota (MN Rules, part 6120.5000-6120.6200).
- c. The density of dwelling units shall not exceed one dwelling unit per lot.
- d. Substandard Uses. All uses in existence prior to the effective date of enactment of amendment of this ordinance which are permitted uses within the Minnesota River land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:

(1) Any structural alteration or addition to a substandard use which will increase the

substandard dimensions shall not be allowed.

(2) Substandard signs shall be gradually eliminated over a period of time not to exceed five years from the date of enactment or amendment to this ordinance.

2.2 Substandard Lots

- a. Lots of record in the office of the County Recorder on the effective day of enactment of this Ordinance which do not meet the dimensional requirements of this Ordinance 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 Ordinance; and all sanitary and dimensional requirements are complied with, as practicable.
- b. If in a group of contiguous lots under a single ownership, any individual lot does not meet the lot width minimum requirements of this Ordinance, such individual lot cannot be considered as a separate parcel of land for purpose of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the lot width requirements of this Ordinance, or to the greatest extent practicable.

2.3 Sewage Disposal and Water Supply

- a. Any premises intended for human occupancy must provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities must be used where available and feasible. Where public or municipal facilities are not available, all on-site individual sewer treatment systems shall conform to the minimum standards and administrative procedures set forth in other applicable local ordinances, the minimum standards of the Minnesota Pollution Control Agency, the Minnesota Department of Health and Section XII, Subdivision 1.0 of this Ordinance.
- b. No person, firm, or corporation shall install, alter, repair, or extend any individual sewage disposal system or private well without first obtaining a permit for such action from the County Planning and Zoning Administrator for the specific installation, alteration, repair, or extension.
- c. Any public or private supply of water for domestic purposes must conform to Minnesota Department of Health standards for water quality and the administrative procedures of other applicable local ordinances.
- d. All noncompliant sewage treatment systems shall be brought into compliance or discontinued within five years of the date of enactment of this ordinance. For the purposes of this provision, a sewage treatment system shall not be considered noncompliant if the only deficiency is the sewage system's improper setback from the ordinary high water level.

2.4 Vegetative Cutting

- a. The vegetative cutting provisions Section IV, Subdivision 2.0(2.4) shall apply to those areas as specified in Section IV, Subdivision 2.0(2. 1) of this Ordinance.
- b. General Provisions, within designated setback areas:
 1. Clear cutting, except for any authorized public services such as roads and utilities, shall not be permitted.
 2. Selective cutting of trees in excess of four inches (to be measured at breast height) shall be permitted provided cutting is spaced in several cutting operations and a continuous tree cover is maintained.
 3. The cutting provision of Section IV, Subdivision 2.0(2.4) shall not be deemed to prevent:
 - a. The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards.
 - b. Pruning understory vegetation, shrubs, plants, bushes, grasses or from harvesting crops, or cutting suppressed trees.
- c. Clear Cutting: Clear cutting anywhere in the designated land use district(s) on the Minnesota River is subject to the following standards and criteria.
 1. Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Zoning Administrator and the County=s Natural Resource and Conservation Service District Conservationist, to be fragile and subject to severe erosion and/or sedimentation.
 2. Clear cutting shall be conducted only where clear-cut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.
 3. The size of clear cut blocks, patches, or strips shall be kept at the minimum necessary.
 4. 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.

2.5 Grading, Filling, Alterations of the Beds of Public Waters

- a. Any grading and filling work done within the designated land use district(s) of this Ordinance shall require a permit and shall comply with the following:
 1. Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be permitted in the land use district(s).
 2. 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 Administrator. A grading and filling permit

may be issued only if the conditions of Section IV, Subdivision 2.0 (2.5) are properly satisfied.

3. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.
4. Grading and filling of the natural topography shall also meet the following standards:
 - a. The smallest amount of bare ground is exposed for as short a time as feasible.
 - b. Temporary ground cover such as mulch is used and permanent ground cover, such as sod is laid.
 - c. Methods to prevent erosion and to trap sediment are employed.
 - d. Fill is stabilized to accepted engineering standards.
- b. Excavation of material from, or filling in a Wild, Scenic or Recreational River, or construction of any permanent structures or navigational obstructions therein is prohibited unless authorized by a permit from the Commissioner of DNR pursuant to MN Statutes, Section 103G.245.
- c. Drainage or filling in of wetlands is not allowed within the land use district(s) designated by this Ordinance.

2.6 Utility Transmission Lines

All utility transmission crossings of land within the Minnesota 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 MN Rules, Part 6105.0180. No conditional use permit shall be required for high voltage transmission lines under control of the Environmental Quality Council pursuant to Minnesota Statutes, Section 116 C.61.

2.7 Public Roads

In addition to such permits as may be required by MN Statutes Section 103G.245, 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 MN Rules, Part 6105.0200. A conditional use permit is not required for minor public streets which are streets intended to serve primarily as an access to abutting properties. Public roads include township, county, and municipal roads and highways which serve or are designed to serve flows of traffic between communities or other traffic generating areas.

2.8 Land Suitability

- a. No land shall be subdivided which is determined by the local government, or the

Commissioner, to be unsuitable because of flooding, inadequate drainage, soil and rock formations 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.

- b. The provisions otherwise set forth in this ordinance and in the subdivision ordinance shall apply to all plats except planned cluster developments.

2.9 Planned Cluster Development. A planned cluster development may be allowed 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. Smaller lot sizes may be allowed as exceptions to this ordinance for planned cluster developments provided:

- a. Preliminary plans are approved by the Commissioner prior to their enactment by the county.
- b. Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Minnesota 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 equally effective and permanent methods.
- d. There is not more than one centralized boat launching facility for each cluster.
- e. All provisions of Section XII, Subdivision 3.0 of this Ordinance which are more restrictive shall be complied with.

Subdivision 3.0 General Regulations

- 1. Additional requirements for signs, parking, and other regulations in the Minnesota River Management District are set forth in Section XII, General Regulations.

Subdivision 4.0 Review and Certification Requirements.

4.1 Certification

- a. Certain land use decisions which directly affect the use of land within the designated land use districts and involve any of the following actions must be certified by the Commissioner as described in Section IV, Subdivision 4.2:
 - 1. Adopting or amending an ordinance regulating the use of land, including rezoning of particular tracts of land.
 - 2. Granting a variance from a provision of this ordinance.

3. Approving a plat which is inconsistent with this ordinance.
- b. No such action shall be effective until the Commissioner has certified that the action complies with the Minnesota Wild and Scenic Rivers Act, the statewide standards and criteria, and the management plan.

4.2 Certification Procedures.

- a. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under this ordinance shall be sent so as to be received by the Commissioner at least 30 days prior to such hearings or meetings to consider such actions. The notice or application shall include a copy of the proposed ordinance or amendment, or a copy of the proposed inconsistent plat, or a description of the requested variance and accompanying information.
- b. The Commissioner shall be notified of the final decision on the proposed action within ten days of the decision.
- c. The Commissioner shall, no later than 30 days from the time notice is received of the final decision, communicate either certification of approval, with or without conditions, or notice of nonapproval.
 - 1) The action becomes effective when and only when either:
 - a. The final decision has previously received certification of approval from the Commissioner; or
 - b. The County receives certification of approval after its final decision; or
 - 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 nonapproval; or
 - d. The Commissioner certifies his approval after conducting a public hearing.
- d. In case the Commissioner gives notice of nonapproval of an ordinance, amendment, variance or inconsistent plat, either the applicant or the County 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 nonapproval becomes final.
 - 1) The hearing will be held in an appropriate local community within 60 days of the demand and after at least two week=s published notice.
 - 2) The hearing will be conducted in accordance with Minnesota Statutes, Section 103G.311, Subdivisions 2, 6, and 7.
 - 3) The Commissioner shall either certify his approval or deny the proposed

action within 30 days of the recommendation of the Administrative Law Judge.

4.3 Amendments.

- a. Upon receipt in proper form of the application and other requested materials, a public hearing shall be conducted in the manner prescribed by Minnesota Statutes. Following the public hearing, the county may adopt the amendment in the manner prescribed by Minnesota Statutes.
- b. Certification from the Commissioner must be obtained as specified in Section IV, Subdivision 4.2 before the proposed amendment becomes effective.

4.4 Variances.

- a. The granting of a variance requires the presence of all of the following conditions:
 1. The strict enforcement of the land use controls will result in unnecessary hardship.
 2. Granting of the variance is not contrary to the purpose and intent of this ordinance and is consistent with MN Rules, parts 6105.1200-6105.1370.
 3. There are exceptional circumstances unique to the subject property which were not created by the landowner.
 4. Granting of the variance will not allow any use which is neither a permitted or conditional use in the land use district in which the subject property is located.
 5. Granting of the variance will not alter the essential character of the locality.
 6. Exception: Where a setback pattern from the ordinary high water level has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall apply only to lots which do not meet the minimum lot width requirements of this ordinance.
- b. All granted variances to the requirements of this ordinance must be certified in accordance with Section IV, Subdivision 4.2 of this ordinance before they become effective.

4.5 Plats

- a. Copies of all plats within the Minnesota River Management District shall be forwarded to the Commissioner within ten days of approval by the County.
- b. All inconsistent plats approved by the County must be certified in accordance with Section IV, Subdivision 4.2 of this ordinance.
- c. Approval of a plat which is inconsistent with this ordinance is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal..

OFFICIAL ORDINANCE MAP #3

Minnesota River Management District

On Display at Yellow Medicine County Planning Office

SECTION V - URBAN EXPANSION MANAGEMENT DISTRICT (U)

Subdivision 1.0 District Boundaries

The Urban Expansion Management District is identified by Official Ordinance Map #4. These lands have been classified by the Yellow Medicine County Land and Related Resources Management Plan as either partial, perimeter or potential urban service areas. Each classification is dependent upon the location a parcel of land in relation to an incorporated municipality and the public services that community provides to it or a neighboring parcel of land such as paved streets, sewer and/or water facilities. It is within these parcels of land that the below listed permitted or conditional urban-related uses are allowed.

Subdivision 2.0 Permitted Uses

1. Single family dwellings, provided that they conform to the standards set forth in Section V, Subdivision 4.0.
2. Agricultural uses, except for feedlot and poultry operations.
3. Public and private open space and recreation uses.
4. Private and public roads.
5. Accessory structures.

Subdivision 3.0 Conditional Uses

1. Manufactured home parks
2. Subdivisions for residential uses
3. Business and/or industrial uses
4. Planned Unit Developments (PUD)
5. Extractive mining
6. Airports
7. Special public uses as defined by provision of Section VI, Subdivision 2.0 of this Ordinance
8. Home occupations

Subdivision 4.0 Additional Standards for Permitted and Conditional Uses

In addition to those requirements for conditional use permits set forth in Section XIII of this Ordinance, permitted and conditional uses are subject to the following regulations:

- a. Lots must conform with existing public facilities presently being provided by the neighboring municipality, such as sewer and water lines and paved or gravel service roads. If these public facilities are presently not being provided, the proposed development must be compatible with the future urban expansion of the respective municipality and the township it is located in and not be detrimental to the health,

safety, and general welfare of the public.

- b. Manufactured homes which do not meet specifications #1 - #5 as stated in Section I, Subdivision 8.0, shall only be located in manufactured home parks in accordance to the provisions addressed in Section V, Subdivision 5.0.
- c. The minimum standards for lot size and setback of structures located on each lot are given in this Section.

Subdivision 5.0 Manufactured Home Parks and Recreational Camping Areas

Manufactured home parks and recreational camping areas are subject to the following regulations:

- a. The proposed site shall offer central sewage and water facilities, organized garbage collection, electricity, on-site parking space equal to one space for each mobile home, garbage and trash disposal facilities, and safe entrance to public roads in case of emergencies.
- b. All Manufactured Home Parks and Recreational Camping Areas constructed after the effective date of this Ordinance shall comply to Minnesota Statutes Chapter 327, Sections 327.10 - 327.28, laws regulating mobile home parks and recreational camping areas and Chapter 13, MHD 187-197, Minnesota State Board of Health regulations governing manufactured home parks and recreational camping areas.
- c. Application for a Manufactured Home Park or Recreational Camping Area.
 - 1) Application to establish a manufactured home park or recreational camping facility shall follow the procedure set in Section XIII, Subdivision 5.0 for Conditional Uses.
 - 2) In addition to the requirements of (1) above, an applicant for a manufactured home park or recreational camping facility shall submit a plan for the proposed park for review by the Planning Commission and Board of County Commissioners.
 - 3) The minimum setback and lot size requirements for each manufactured home unit are given in this Section.

Subdivision 6.0 Feedlot and Poultry Operations

Feedlot and poultry operations are subject to the regulations as established in Section VII Animal Feedlot Ordinance.

Subdivision 7.0 Minimum Lot Size, Building Height, Setback Requirements

Permitted and Conditional Uses

- 1. Building Height - 35 feet
- 2. Lot Width - 100 feet

3. Lot Depth - 120 feet
4. Front Yard - 50 feet from road right of way
5. Side Yard - 15 feet from adjacent lot line
6. Rear Yard - 30 feet from adjacent lot line
7. Lot Size:
 - a. The minimum lot area required shall be one-third (1/3) acre with central sewer and water, and one (1) acre for on-site utilities.
 - b. Subdivisions without municipal sewer and water:
 - 1) In subdivisions where municipal sewer and water are not presently available the County Board may require that the developer convey two or more lots for the purpose of transfer of ownership or building development, and further that any such building development be confined to one of the multiple lots conveyed at the setbacks described in this Section. At such time as municipal sewer and water becomes available, and upon connection of the existing building development to same, the underdeveloped lots may be conveyed to other persons or entities and building development may be permitted on the previously undeveloped lots at the setbacks as described in this Section.
 - 2) In cases where the County Board requires the conveyance of two or more lots to establish a building site, all provisions of the County's Ordinance shall apply on an individual lot basis.
 - c. Subdivision with municipal water and sewer:

In subdivisions where municipal water and sewer service will be available at the time of acceptance of the final plat by the County Board, the purchase of only one lot for development purposes is required. The minimum lot size is set forth in this Section.
 - d. Additional requirements for signs, parking, and other regulations in the Urban Expansion District are set forth in the Section I - General Regulations and Section XX - Sign Ordinance.
8. Manufactured Home Parks - height, side yard, rear yard, lot width and lot area regulations
 - a. Building Height - 35 feet maximum
 - b. Lot Width - 45 feet minimum
 - c. Lot Depth - 90 feet minimum
 - d. Front Yard - 10 feet from access road
 - e. Rear Yard - 10 feet from lot line
 - f. Side Yard - 10 feet from lot line
 - g. Lot Size - 4050 square feet minimum

OFFICIAL ORDINANCE MAP #4

URBAN EXPANSION MANAGEMENT DISTRICT

On display at Yellow Medicine County Planning Office

SECTION VI - RURAL PRESERVATION MANAGEMENT DISTRICT (AG)

Subdivision 1.0 District's Boundaries

For all lands that are not classified in accordance with Section V of this Ordinance, they will lie within the Rural Preservation Management District. The Rural Preservation Management District is illustrated by **Official Ordinance Map #5**. These lands are predominantly noted for their agricultural and/or natural area uses. The Rural Preservation Management District is divided into eight rural preservation areas. These areas are described below.

Rural Preservation Area #1 - Lands that have prime soil characteristics and no natural areas associated with them.

Rural Preservation Area #2 - Lands that have prime soil characteristics and natural areas associated with them.

Rural Preservation Area #3 - Lands that have good soil characteristics and no natural areas associated with them.

Rural Preservation Area #4 - Lands that have good soil characteristics and natural areas associated with them.

Rural Preservation Area #5 - Lands that have marginal soil characteristics and no natural areas associated with them.

Rural Preservation Area #6 - Lands that have marginal soil characteristics and natural areas associated with them.

Rural Preservation Area #7 - Lands that have nontillable soil characteristics and no natural areas associated with them.

Rural Preservation Area #8 - Lands that have nontillable soil characteristics and natural areas associated with them.

Subdivision 2.0 Permitted and Conditional Uses

The following chart indicates the permitted and conditional uses allowed within each Rural Preservation Area. Indication of permitted uses is made with the letter "P" and conditional uses with the letter "C". ANY USE WHICH IS NOT LISTED OR DOES NOT HAVE A "P" OR "C" INDICATING IT AS EITHER A PERMITTED OR CONDITIONAL USE WITHIN THE RESPECTIVE RURAL PRESERVATION AREA IS NOT ALLOWED. A definition of each use identified is given following the chart.

RURAL PRESERVATION AREAS

	Area #1	Area #2	Area #3	Area #4	Area #5	Area #6	Area #7	Area #8
Agriculture	P	P	P	P	P	P	P	P
Airports	C	C	C	C	C	C	C	C
Business Uses	C	C	C	C	C	C	C	C
Demolition Landfill Sites (including Permit-by-Rule)	C	C	C	C	C	C	C	C
Essential Services	C	C	C	C	C	C	C	C
Extractive Uses	C	C	C	C	C	C	C	C
Feedlots (greater than 500 animal units)	C	C	C	C	C	C	C	C
Feedlots (less than 500 animal units)	P	P	P	P	P	P	P	P
Home Occupations	P	P	P	P	P	P	P	P
Industrial Uses	C	C	C	C	C	C	C	C
Manufactured Homes Type I	C	C	C	C	C	C	C	C
Manufactured Homes Type II	P	P	P	P	P	P	P	P
Non-Farm Dwellings	C	C	C	C	P	P	P	P
Open Space and Recreation	C	C	C	C	P	P	P	P
Roads	C	C	C	C	C	C	C	C
Shooting Range	C	C	C	C	C	C	C	C
Soil & Water Conservation Structure	P	P	P	P	P	P	P	P
Solar Energy Farm	C	C	C	C	C	C	C	C
Solar Energy Systems	P	P	P	P	P	P	P	P
Special Public Uses	C	C	C	C	C	C	C	C
Subdivisions					C	C	C	C
Transmission Towers	C	C	C	C	C	C	C	C
Wind Energy Conversion Systems – Commercial	C	C	C	C	C	C	C	C
Wind Energy Conversion Systems: Non-Commercial	P	P	P	P	P	P	P	P

Definitions:

Agriculture uses include farm dwellings, agricultural buildings and structures along with lands that are used for tillage and pasture activities.

Airports - Any land or structure which is used or intended for use, for the landing and take-off of aircraft, and any appurtenant land or structure used or intended or use of port buildings or other port structures or rights-of-way.

Business uses include for profit wedding venues, retreats, arts and entertainment venues, bed and breakfast establishments, gasoline stations, beauty shops, dog kennels, salvage yards and similar uses provided they meet the minimum standards of this Ordinance.

Demolition Landfill sites are those sites established for the collection of demolition debris from buildings, roads or other man-made structures. Demolition debris includes concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. Demolition debris does not include asbestos waste.

Essential services include wind turbine farms, overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communications, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, but not including buildings. For the purpose of this Ordinance the word "building" does not include "structure" for essential services.

Extractive uses include the activities related to the extraction of minerals as described in Section I, Subdivision 8, Definitions.

Feedlots - a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Ordinance

Home occupations includes the use of a property zoned residential or agricultural for any occupation, activity or profession carried out for financial gain which is clearly subordinate and incidental to the use of the property as residential, which is carried out solely within the main dwelling or an accessory building, and does not alter or change the exterior character of the appearance of the property and that which is normally associated with a residential dwelling unit, and that is created and operated by the occupant of the dwelling. This does not include garage sales, yard sales and one-time product sales parties.

Industrial uses include facilities used for the storage of agricultural or non-agricultural related

products such as grain and fertilizer bins or beet piles and the storage of energy related products such as propane and natural gas.

Manufactured Homes

Type I – A manufactured home used as living quarters, designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks, connection to utilities and the like.

Type II – A manufactured home that meets the following specifications:

1. The structure shall have a permanent masonry or wood foundation meeting the requirements of the State Building Code that shall be solid for the complete circumference of the structure.
2. The average width of the structure and foundation shall be twenty (20) feet.
3. The structure shall have conventional siding, lapping the foundation by a minimum of one (1) inch.
4. The structure shall be anchored in accordance with the State Building Code.
5. The structure shall have a pitched roof, covered with shingles or tile, with a minimum of twelve (12) inch eaves.

Non-farm dwellings are dwellings and accessory structures located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident of said dwelling neither operates nor is employed in agricultural activities thereon.

Open space and recreational uses include public and private parks and recreation areas, wildlife management and water production areas, multi-purpose trail systems, environmental education sites, historic sites and interpretive centers.

Roads - 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, service road, place or however otherwise designated.

Shooting Range, Public or Private - An area or facility that is designed or operated primarily for the use of firearms, archery or other weapons, and that is operated as a business, operated by a private individual, club or association, or operated by a government entity. An incidental target practice area on private property that occasionally is used by an individual or group of individuals for the use of firearms shall not constitute a shooting range.

Soil and water conservation structures include water reservoirs, windbreaks, and other measures which conform with the management practices encouraged by the Natural Resource Conservation Service, Farm Service Agency, Soil and Water Conservation District and other agencies for the protection of farmland against erosion and public waters from degradation by sedimentation.

Solar Energy Farm - A solar array composed of multiple solar panels on ground-mounted rack or poles, which is the primary land use for the parcel on which it is located.

Solar Energy Systems – A solar panel or array mounted on a building, pole or rack that is secondary to the primary use of the panel on which it is located and is directed, connected or designed to serve the energy needs of the primary use.

Special public uses include municipal sewer and water facilities, churches, cemeteries, electrical power sub-stations and similar public uses, but not public or parochial schools, libraries, nursing homes, hospitals or municipal buildings.

Transmission towers/antenna includes any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts.

Subdivisions – The division or redivision of a lot, tract or parcel or land regardless of how it is to be used into two or more lots either by plat or by metes and bounds description, or the division or redivision of land involving dedication of a new park, playground, street or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water or other public improvements of facilities, provided however, that the following classes shall be exempt:

1. The division of land for agricultural purposes into parcels greater than five (5) acres where no new streets, roads or other right-of-way are involved.
2. The division of a lot for the purpose of attachment to contiguous lots provided no residual plat is left unattended.

Subdivision 3.0 Additional Standards for Permitted and Conditional Uses

In addition to those standards for conditional uses set forth in Section XIII of this Ordinance, permitted and conditional uses are subject to the following regulations:

1. All farm and non-farm buildings and accessory structures within the Rural Preservation Management District of the County shall be setback from all state, county, township roads and all other public roads at least one-hundred (100) feet from the right-of-way of the road.
2. Implement storage and hay bales must be setback a minimum of one-hundred feet (100'), if such obstructions are deemed unsafe, unsuitable, or improperly located for the effective and efficient maintenance of public roads and public safety.
3. Non-farm dwellings, when replacing an existing dwelling, shall be a permitted use.
4. Accessory structures, located on a tract of land where a non-farm dwelling already exists, are a permitted use.
5. A permit-by-rule demolition landfill shall be a permitted use, if the owner of the material to be buried and the property owner of the landfill site are one and the same.

Subdivision 4.0 Lot Size, Setback and Height Regulations (minimum requirements).

1. Front Yard Setbacks – One hundred (100) feet from the right-of way of a public road
2. Side Yard Setbacks - Thirty (30) feet
3. Rear Yard Setbacks – Thirty (30) feet
4. Drainage Ditch – One hundred (100) feet
5. Lot Width – Every lot shall have a width of not less than one hundred (100) feet abutting a public road right-of-way.
6. Lot Area Regulation
 - a. All dwellings shall be located on a tract of land consisting of a minimum of three (3) acres.
 - b. Only one non-farm dwelling site shall be allowed by conditional use permit on each quarter quarter (1/4 - 1/4) section of land located within Rural Preservation Areas #1 - #4.
 - c. Non-farm dwellings in Rural Management Areas #5 - #8 shall be a permitted use, and shall be limited to only one per quarter quarter (1/4 – 1/4) section of land.
 - d. Exception: A second dwelling may be permitted on existing building sites in Rural Preservation Areas #1 -#8, provided that the building site is not less than 6 acres.

Exceptions: (For existing sites only)

1. A waiver form may be obtained from the appropriate road authority when the proposed building or structure is within the 100' setback of the public road and in line with other structures and buildings on the site. If the waiver is not approved, the applicant may request a public hearing before the Board of Adjustment.
2. A waiver form may be obtained from neighboring property owner(s) for proposed buildings and structures within the required setbacks of the neighboring property line. If the waiver is not approved, the applicant may request a public hearing before the Board of Adjustment.
3. A waiver form may be obtained from the Drainage Authority for a proposed building or structure within the required setbacks of a drainage ditch. If a waiver is not approved, the applicant may request a public hearing before the Board of Adjustment.

Standards for Waivers:

A waiver may not be used for buildings or structures exceeding 50% of the required setback.

Subdivision 5.0 General Regulations

Additional requirements for signs, parking, and other regulations in the Rural Preservation Area are set forth in Section XII - General Regulations and in Section XX – Signs.

Subdivision 6.0 Farmstead & Field Windbreak Plantings

6.1 Intent

To preserve and enhance the existing aesthetics and scenic values of present plantings and to encourage increased tree planting throughout Yellow Medicine County because of its natural prairie topography and to conserve our precious agricultural topsoil.

To enhance wildlife habitat, to create snow, wind and water retention areas and green spaces and other environmental uses beneficial to citizens of Yellow Medicine County.

6.2 Standards for Height, Side, and Rearyard Lot Area Regulations

- a. New farmstead windbreaks shall be one-hundred (100) feet from the road right-of-way.
Exception: on existing farmsteads where plantings need to establish the required buffer zone from windbreak to structures on the site for proper function of the farmstead windbreak for wind and snow retention, approval by the appropriate road authority will be required.
- b. No trees will be allowed on any right-of-way when farmstead windbreaks or field windbreaks are replaced.
- c. Tree plantings under electrical highlines shall be of a shorter variety with a maximum of sixteen (16') feet at maturity.
- d. All field windbreaks and homestead groves shall maintain a two hundred (200') foot setback from all public road intersections and all public roads and railroad intersections.
- e. Trees shall be setback from side and rear property lines one-half the width of the crown of the tree at maturity.

Exception: Where persons request to plant on or closer to a property line, a contractual restrictive agreement covenant shall be entered into with adjacent property owners to be obtained from the County Zoning Coordinator and the Soil and Water Conservation District

6.3 County and Judicial Ditches

- a. A setback of fifty (50') feet must be maintained along drainage ditch systems for all on-going operations and maintenance such as, but not limited to ditch cleaning, grading of spoil banks, spraying and cutting of noxious weeds, brush and trees.

OFFICIAL ORDINANCE MAP #5

RURAL PRESERVATION MANAGEMENT DISTRICT

On display at Yellow Medicine County Planning Office

SECTION VII: YELLOW MEDICINE COUNTY ANIMAL FEEDLOT ORDINANCE

INTENT:

An adequate supply of healthy livestock, poultry, and other animals is essential to the well being of Yellow Medicine County citizens and the State of Minnesota. These domesticated animals provide our daily source of meat, milk, eggs and fiber. Their efficient, economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.

However, livestock, poultry and other animals produce manure which may, when improperly stored, transported, or disposed of, negatively affect Yellow Medicine County's environment. When animal manure adds to air, water, or land pollution in the County, it must be controlled.

The following standards for the control of livestock, poultry and other animal feedlots and manure application have been promulgated to provide protection against pollution caused by manure from domesticated animals. However, these standards recognize that animal manure provides beneficial qualities to the soil and to the production of agricultural crops.

All feedlot owners and operators should act as good neighbors and apply animal manure when the time of year, wind direction and closeness of neighboring dwellings is least affected and to use consideration in selection of an appropriate time and place of application. All feedlots shall be operated in a nuisance free manner consistent with the standards set forth in this Ordinance and the Minnesota Pollution Control Agency.

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minnesota State Statutes Chapters 115 and 116 and the Land Use Enabling Legislation Chapter 394. It has been our experience that the environment and residential and agricultural uses of land are often incompatible and this is the purpose of these feedlot performance standards, regulating the uses and development of land in Yellow Medicine County which may adversely affect the health, safety, morale and general welfare of the public.

Subdivision 1.0 Adoption By Reference of State Regulation

Pursuant to Minnesota Statutes, the Yellow Medicine County Board of Commissioners hereby adopts by reference Minnesota Rules Chapter 7020 for the control of pollution from animal feedlots, as amended.

Subdivision 2.0 Scope

The provisions of parts of Minnesota Rules Chapter 7020 govern the storage, transportation, disposal, and utilization of animal manure and the application for issuance of permits for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment.

From and after the date of adoption of this Ordinance and subsequent amendments, all existing or proposed new feedlots or expansion of existing feedlots shall be in conformity with the provision of this Ordinance and Minnesota Rules Chapter 7020.

No person shall permit or allow their land or property under their control to be used for any new animal feedlot or expansion of an existing feedlot within Yellow Medicine County unless in compliance with the provisions of this Ordinance and all pertinent subdivisions of this Ordinance.

All feedlots within Yellow Medicine County shall manage animal manure in compliance with this Ordinance.

Nothing in this Ordinance shall exempt any owner or operator of any feedlot from conforming to applicable state or federal regulations governing confined feeding operations or any other provisions of this Ordinance.

Subdivision 3.0 General Provisions

A. Interpretation

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

B. Severability

If any subdivision, clause, provision, or portion is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by that determination.

C. Administration and Enforcement

The Yellow Medicine County Land and Resource Management Department and the Yellow Medicine County Feedlot Officer, shall be responsible for the administration and enforcement of this Ordinance. The Yellow Medicine County Board of Commissioners may establish permitting fees as necessary.

Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor, and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance.

D. The jurisdiction of this Ordinance section shall include all lands in Yellow Medicine County, Minnesota, excepting those located within incorporated cities.

E. Presumptions / Burden of Proof

1. There is a presumption that no feedlot existed previously on the site proposed for feedlot operations.
2. For a site to be considered an existing feedlot, the land owner bears the burden of establishing, to the satisfaction of the Feedlot Officer and by a preponderance of the evidence, that more than 10 animal units were maintained at the proposed site at some time within the previous five years.
3. The land owner bears the burden of establishing, to the satisfaction of the Feedlot Officer and by a preponderance of the evidence, all facts regarding the number of animal units maintained on a particular site for any particular period of time relevant to determining the permitting requirements applicable to particular site.
4. The Feedlot Officer shall determine the boundaries of an existing feedlot.

Subdivision 4.0 Permit/Registration Requirements

No person shall operate an animal feedlot without being registered or obtaining an NPDES, SDS, construction short-form, or interim permit. Unless otherwise noted within this Ordinance, all MPCA Feedlot Rules and Regulations and other applicable State and Federal laws apply.

A. Feedlot Registration Requirements. The following feedlots are required to be registered according to Minnesota Rules Chapter 7020.

1. A feedlot with 10 animal units or more which is located within the Shoreland District.
2. A feedlot with 50 animal units or more located in a non-Shoreland District.

- B. If land or conditional use permits are required, permits shall be issued by the County and shall be conditional upon complying with the terms and conditions of the permits issued by the Minnesota Pollution Control Agency for the operation of feedlots. No conditional use permit shall be issued without:
1. Manure Management Plan
 2. Dead Animal Disposal Plan
- C. Animal feedlots where all other provisions of this Ordinance have been met and the animal units are less than 500 shall be a permitted use. All other feedlots shall require a Conditional Use permit or Variance, as applicable.
- D. No feedlot shall exceed 2,000 animal units. (A variance may be requested from this requirement, see Subdivision 11.0).
- E. A variance shall be required for:
1. Any expansion of an existing feedlot, with 500 – 999 animal units located on a tract of land less than 10 acres, which has been subdivided prior to the adoption of the ordinance.
 2. Any expansion of an existing feedlot to greater than 1,000 animal units, located on a tract of land less than 20 acres, which has been subdivided prior to the adoption of the ordinance.
- F. All handling and disposal of dead livestock shall meet the minimum standards required by the Board of Animal Health and the Minnesota Pollution Control Agency.
- G. Earthen basins, lagoons, or anaerobic earthen basins to be used for manure storage shall not be allowed.

Exceptions:

1. Earthen basins designed and constructed for pollution abatement shall be permitted, provided that they meet the following criteria.
 - a. considered a potential pollution hazard as described by the MPCA and the NRCS.
 - b. runoff from the lot shall consist of a minimum of 50% snow melt or rain water.
 - c. meet the minimum standards of this Ordinance and shall meet the minimum construction standards required by the MPCA.
2. Earthen basins designed and constructed for the collection of milking center waste water and ruminant animal waste. Basins for animal waste generated by more than 1,000 animal units shall have a minimum of nine (9) months storage capacity. Basins shall meet the minimum construction standards required by MPCA.

- D. Open air liquid manure holding structures for swine shall not be allowed.
- E. Any new animal feedlot, with 500 to 999 animal units or more shall be on a tract of land, not less than 10 acres. New animal feedlots with 1,000 animal units or more shall be on a tract of land not less than 20 acres. Said tract of land shall not be subdivided.
- F. The applicant of any feedlot request of 500 animal units or more, shall no later than 10 business days after the application is submitted, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. Notification shall be delivered as provided in M.S. 116.07, Subd. 7a and Minnesota Rules Chapter 7020.

Subdivision 5.0 Animal Units

An animal unit shall be determined as follows:

- A. Dairy cattle:
 - Mature dairy cow
 - Over 1,000 lbs = 1.4
 - Under 1,000 lbs = 1.0
 - Heifer = .7
 - Calf = .2
- B. Beef cattle:
 - Slaughter steer/heifer, stock cow or bull = 1.0
 - Cow/calf unit = 1.2
 - Feeder steer/heifer = .7
 - Calf = .2
- C. Swine:
 - Sow over 300 lb = .4
 - Swine over 55 lbs. = .3
 - Swine under 55 lbs. = .05
- D. Horse: = 1.0
- E. Sheep: = .1
- F. Goat = .15
- G. Turkeys:
 - Over five lbs = .018
 - Under five lbs = .005

H. Chickens:	= .005
Laying hen or broiler w/liquid manure system	= .033
One chicken w/dry manure System: Over 5lbs.	= .005
Under 5 lbs	= .003
I. Duck:	= .01

Subdivision 6.0 Setback Requirements for Feedlots and Manure Storage Areas

- A. No new feedlot (over 50 animal units) or manure storage area shall be constructed/operated within the following setback distances.
 - 1. 1 mile – public parks
 - 2. 1 mile – the closest residence or business located within the city limits of a municipality.
 - 3. ½ mile – residence
 - 4. ½ mile – FAA approved airport
 - 5. ½ mile – active cemeteries
 - 6. ¼ mile – inactive cemeteries
 - 7. ½ mile – buildings used as a church, synagogue, or place of worship with regularly scheduled services
- B. No manure storage area or livestock structures shall be located within 300 feet of a public, private, county or judicial drainage ditch.
- C. No dwelling shall be allowed within ½ mile of an existing feedlot, unless it is to replace an existing or abandoned dwelling. The waiver form may be utilized if the required setback cannot be met.
- D. New feedlots shall not be located within a Shoreland or Floodplain Management District.
- E. All setbacks of this Ordinance shall apply across county lines. The setback standards of the County where the feedlot is located shall apply.
- F. The minimum required setbacks are reciprocated.
- G. Feedlot setbacks do not apply to the applicant’s own residence or a residence on the farm where the feedlot facility is located.

EXCEPTION:

For feedlots with 500 animal units or less, where the required setback cannot be met, the Waiver Form may be utilized.

Subdivision 7.0 Animal Waste Storage Structures

- A. All new liquid manure holding structures for animal waste generated by 1,000 animal units or more, shall have a minimum storage capacity of nine months

- and shall meet the minimum construction standards required by MPCA.
- B. All new liquid manure holding structures for animal waste generated by less than 1,000 animal units, shall have a minimum storage capacity of seven months and shall meet the minimum construction standards required by MPCA.

Subdivision 8.0 Animal Waste Utilization and Application Setbacks

- A. Application of all animal waste within Yellow Medicine County shall comply with the following setbacks:

	<u>Surface Applied</u>	<u>Incorporated or Injected</u>
1. Watercourse, streams, rivers, lakes, Wetlands, drainage ditches	300'	100'
2. Municipal Well	1,000'	1,000'
3. Private Wells	200'	200'
4. Residential Area (10 or more homes) or municipality	500'	500'
5. Neighboring Dwelling	300'	300'
6. 10 Year Floodplain	Prohibited	Permitted
7. Tile Intakes	300'	10'
8. Road Right of Way	Prohibited	Prohibited

- B. Where an area's topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Feedlot Officer as long as the MPCA minimum guidelines are met.
- C. Irrigation of liquid manure shall not be allowed.
- D. All waste utilization of animal manure as fertilizer shall be according to Natural Resources Conservation Service Standards, the MPCA or the University of Minnesota.
- E. Spreading agreements shall be provided to the Feedlot Officer, if requested, when adequate acres for spreading are not owned by the feedlot owner/operator.

- F. All liquid manure must be incorporated or injected except during frozen soil conditions. Winter application of liquid manure must have prior approval from the Feedlot Officer, and may only be granted in case of emergency.

Subdivision 9.0 Carcass Disposal

- A. Proper disposal of animal carcasses is important to prevent livestock disease transmission and to protect air and water quality. All handling and disposal of dead livestock shall meet the minimum standards required by the Board of Animal Health, University of Minnesota and the Minnesota Pollution Control Agency, such as but not limited to:

Burial:

1. Carcasses must be buried in accordance with Minnesota Pollution Control standards.
2. The carcass must be five feet above the seasonal high water table. Do not place carcass in sandy or gravelly soils. Maintain at least 10 feet of separation between the carcass and the bedrock.
3. Immediately cover the animal with a minimum of three feet of soil.

Incineration:

1. Carcass must be incinerated in a Minnesota Pollution Control approved incinerator.
2. Ash and gas emissions from the incinerator must not exceed pollution standards.

Composting:

1. Composting is allowed for poultry, swine, sheep and goats. The Board of Animal Health may authorize other species to be composted or alternative methods to be used.
2. Composting must be completed in accordance with Board of Animal Health rules 1719.0100 – 1719.4250
3. Composting facilities must be constructed on an impervious pad using rot resistant materials.

Rendering:

1. Carcasses must be contained in a scavenger proof enclosed area that is at least 200 yards from neighbor's buildings.
2. Carcasses must be picked up within 72 hours.
3. Effluent and effluent-contaminated water from the Dead Animal Disposal Area cannot discharge to "Water of the State".

- B. All livestock graveyards and dead boxes shall be managed according to best management practices in a pollution, odor, and nuisance free manner on land leased, rented or owned by the livestock operator.

Subdivision 10.0 Conditional Use Permits

- A. A conditional use permit shall be required:

1. When any new feedlot with 500 or more animal units is proposed.
2. Expansion of a feedlot once the 500 animal unit threshold has been reached, regardless of animal units.
3. For an expansion or modification of an existing feedlot within the Shoreland Management Ordinance or Bluff Impact Zone as defined by the Shoreland Management Ordinance, or a Wellhead Protection Area.
4. For any expansion to existing feedlots (with over 50 animal units) within the required setbacks of Subdivision 6.0 of the Yellow Medicine County Feedlot Ordinance.
5. For any feedlot requiring the Environmental Review Program Pursuant M.S. 116D.04 and 116D.045 and the administrative rules adopted by the EQB 4410.0200-4410.7800.
6. For any expansion of an existing feedlot within the general floodplain and flood prone areas.

- B. Standards for Conditional Use permits:

1. Any changes or modifications not included on the feedlot permit or not specifically permitted in the Conditional Use permit, will require a new application for a Conditional Use permit.
2. Dead animals shall not be disposed of by burial. EXCEPTION: Only in case of emergency and with the permission of the Zoning Administrator will the burying of dead animals be allowed. The owner/operator shall submit soil borings, determine the Seasonal High Water Table separation and maintain adequate soil cover.
3. All liquid manure shall be injected or incorporated within 24 hours.
4. Submission of any other additional information requested by the County Feedlot Officer, Planning Commission, County Board of Commissioners or the Minnesota Pollution Control Agency.
5. The applicant shall be required to develop and implement a plan whereby a windbreak or other odor controlling measures will be installed so as to minimize odors where the Planning Commission and Board of County Commissioners deem it necessary to protect the interests of the adjacent property owners.

- C. Requests for modification of conditions or permitted activities shall require reapplication and approval of an amended Conditional Use Permit.

Subdivision 11.0 Variance

A variance may be requested from any requirements set forth in this Ordinance, whereby reason of exceptional circumstances, the strict enforcement of such provisions would cause unnecessary hardship or would be unreasonable, impractical or not feasible.

Subdivision 12.0 Definitions

Agency - Minnesota Pollution Control Agency

Animal Feedlot – A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Ordinance.

Animal Manure – Means poultry, livestock, or other animal excreta, or a mixture of excreta with feed, bedding, precipitation and other materials.

Bluff Impact Zone – A bluff and land located within 20 feet from the top of a bluff and landward as defined in the Shoreland Management District Rules.

Cemetery - Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

- a. Inactive Cemetery – no new burials have taken place for a term of 20 years.
- b. Active Cemetery – in use at this time.

Church – a structure that holds regular worship services and is recorded with the County Recorder as the like status. This structure must also be registered as a church with the Minnesota Department of Revenue.

Construction Short Form Permit – Construction short-form permit means a permit issued for an animal feedlot or manure storage area according to parts 7020.0505 and 7020.0535. This also applies to new or existing feedlots intending to construct or expand to a capacity between 300 and 999 animal units. To qualify, the feedlot must be constructed and operated in accordance with technical standards in Minnesota Rules Chapter 7020.2000 to 7020.2225 and the facility does not have a pollution hazard. The duration of this permit is 24 months from the date of issuance.

Drainage Ditch - An excavated improved open channel used to conduct the flow of water and is part of a drainage system.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings.

Earthen Storage Basin – An impoundment made by excavation or earthfill for temporary storage of animal or other agricultural waste.

Existing Feedlot – An existing feedlot which is currently in operation at the passage of this Ordinance, and/or having been registered or permitted within the last five years.

Expansion – Construction or any activity which may result in the increase in the number of animal units that a feedlot is capable of holding or an increase in manure storage capacity.

Feedlot Operator – An individual, corporation, a group of individuals, a partnership, joint venture, owner, or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

Feedlot Setback - The nearest point of a neighboring dwelling to the nearest corner of the livestock or manure holding structure.

Incorporated - When manure is surface applied and mechanically incorporated within 24 hours of application

Injected – When manure is mechanically injected or tilled into the soil during manure application.

Interim Permit – Issued by the commissioner or the county feedlot pollution control officer in accordance with parts 7020.0505 and 7020.0535, for an existing feedlot of 999 or less animal units intending to construct or expand when the facility has a pollution hazard. These permits will expire two (2) years after the date they are issued.

Liquid manure – Manure consisting of four percent solids or less.

Manure Management Plan – Includes but not limited to the management of manure, manure handling and method of application, prescribed rates of application and expected nutrient carryover, soils and manure testing and analysis, crop rotation, frequency of application, commercial fertilizer to be used where manure is land applied, signed spreading agreements, contracts and acreage available to manure application and plans for any proposed manure storage structure, and as further defined by the MPCA.

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

MPCA – Minnesota Pollution Control Agency

NPDES Permit – National Pollutant Discharge Elimination System. A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations (CAFO's).

NRCS - Natural Resource Conservation Service

New Animal Feedlot - New animal feedlot means an animal feedlot or manure storage area:

- A. constructed, established, or operated at a site where no feedlot or manure storage area existed previously; or
- B. that existed previously and has been unused for five years or more.

Owner – Any individual, firm, association, syndicate, partnership, corporation, trust, or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this ordinance, or the owner of record.

Public Park – Any public land available for recreational, educational, cultural, or aesthetics use. This area is open to the general public and reserved for recreational, educational, or scenic purposes such as, but not limited to: Memorial Park, Oraas Park, Stone Hill Park, Timm Park, and Upper Sioux Agency State Park. ****This does not include Wildlife Management Areas owned or operated by the DNR, US Fish and Wildlife or the Department of the Interior.*

Residence - Any dwelling which is currently occupied or has been occupied for any period of time within the last five years.

SDS (State Disposal Systems) Permit - A permit issued by the state to any facility that does not meet the criteria for an NPDES permit or Interim Permit that has a pollution hazard. SDS permits may also be issued for proposed, construction and operation of a new technology and may be processed in accordance with parts 7001.0040; 7001.0050; 7001; 0100, subparts 4 and 5; and 7001.0110.

Semi – Solid Manure – Manure consisting of 4% - 15% solids.

Solid Manure – Manure consisting of greater than 15% solids.

Waiver – For any new feedlot, or an expansion to an existing feedlot, with 500 animal units or less, that is within the required setback listed in Subdivision 6.0 of the Feedlot Ordinance. The owner of a neighboring residence may, by signing a waiver, intentionally relinquish their right, claim or privilege to a public hearing and give their approval to the proposed project. All waivers shall be legally recorded at the County Recorder's office, by the feedlot proposer.

Said waiver may include conditions onto the proposed feedlot operation, such as, but not limited to:

1. Be notified when manure is to be applied.
2. Request trees to be planted as barriers and screening.
3. May establish a specific distance manure application is to be from the building site.

Water Appropriation Permit – For purposes of this Feedlot Ordinance, a permit required by the DNR for the appropriation of waters of the state, such as, but not limited to: withdrawal of water for any use at a rate greater than 10,000 gallons per day or more than five million gallons per year.

Wildlife Management Areas – Public lands for the purpose of reclaiming, creating and managing upland and wetland wildlife habitat as defined by the Natural Resource Conservation Service. These areas are primarily owned and operated by DNR, US Fish and Wildlife and the Department of the Interior.

SECTION VIII - GENERAL BUSINESS DISTRICT (B)

Subdivision 1.0 Purpose

The B - General Business District is intended to provide a district that will allow retail and commercial uses in the unincorporated areas of the County at standards that will not impair the traffic carrying capabilities of abutting roads and highways.

Subdivision 2.0 Permitted Uses

The following uses shall be permitted within the B ó GENERAL BUSINESS DISTRICT:

1. Agriculture
2. Automobile service stations
3. Billboards and signs, as regulated in the Sign Ordinance
4. Drive-in restaurants
5. Farm implement sales and service
6. Government buildings
7. Landscape nursery, garden store
8. Offices, business or professional
9. Restaurants, cafes, taverns
10. Vending machines

Subdivision 3.0 Conditional Uses

The following uses may be allowed in the B ó GENERAL BUSINESS DISTRICT subject to the Conditional Use Provisions:

1. Other business activities of the same general character as listed in Subdivision 2.0 of this Section.
2. Single family homes

Subdivision 4.0 Accessory Uses

The following uses shall be permitted accessory uses within the B -GENERAL BUSINESS DISTRICT :

1. Accessory uses customarily incident to the uses permitted in Subdivision 2.0 and 3.0 of this Section

Subdivision 5.0 Height, Yard, Lot Width, and Coverage Regulations

1. Height - 35 feet maximum
2. Front yard setback

- a. County and state highways - 100 feet (right-of-way)
- b. Township roads - 100 feet (right-of-way)
3. Side yard setback - 30 feet
4. Rear yard setback - 40 feet
5. Lot width - 100 feet
6. Lot depth - 150 feet
7. Lot area - 1 acre
8. Lot coverage - not more than thirty (30) percent shall be occupied by buildings

*NOTE: #3 - #7 above are minimum requirements

Subdivision 6.0 General Regulations

Additional requirements for signs, parking, and other regulations in the B - GENERAL BUSINESS DISTRICT are set forth in Section XII ó General Regulations and Section Xx - Signs.

SECTION IX - I - INDUSTRY DISTRICT (I)

Subdivision 1.0 Purpose

The I - Industry District is intended to provide a district that will allow general industry in the County and at standards that will not impair the traffic carrying capabilities of abutting roads and highways. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting district.

Subdivision 2.0 Permitted Uses

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

1. Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products which conform to the performance standards set forth hereinafter, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.
2. Automobile service stations - for the retail or wholesale dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building.
3. Building material sales
4. Cartage and express facilities
5. Contractors', architects', and engineers' offices, shops, and yards, such as building, cement, heating, electrical, ventilation, air-conditioning, masonry, painting, plumbing, refrigeration, and roofing
6. Dry-cleaning establishments
7. Dwelling units, for watchmen and their families, located on the premises where they are employed in such capacity
8. Farm implement sales and storage
9. Fuel and ice sales
10. Grain elevators
11. Garages - for storage, repair, and servicing of motor vehicles
12. Greenhouses- wholesale
13. Mail order houses
14. Printing
15. Public utility and service uses, including:
 - a. Railroad right-of-way
 - b. Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers
16. Publishing
17. Transmitting and Receiving Towers
18. Restaurants

19. Signs and billboards as regulated by Section XX - SIGN ORDINANCE

Subdivision 3.0 Conditional Uses

The following uses may be allowed in the I - INDUSTRY DISTRICT, subject to the provisions of CONDITIONAL USE PERMITS:

1. Air, railroad, and water freight terminals, railroad switching and classification yards, repair shops, and roundhouses
2. Other business and industrial activities of the same general character as listed in Subdivision 2.0 of this Section
3. Solid waste transfer stations and resource recovery stations

Subdivision 4.0 Accessory Uses

Accessory uses customarily incident to the uses permitted in Subdivision 2.0 and 3.0 of this Section shall be permitted accessory uses within the I - INDUSTRY DISTRICT.

Subdivision 5.0 Height, Yard, Lot Width, and Lot Coverage Regulations

1. Height - 35 feet maximum
2. Front yard setback - 100 feet (right-of-way)
3. Side yard setback
 - a) 30 feet
 - b) Except that no building shall be located within 50 feet of any side lot line abutting a lot in any Urban Expansion District or Rural Preservation District
4. Rear yard setback
 - a) 30 feet
 - b) Except that there shall be a minimum rear yard or one hundred (100) feet of any lot line abutting a lot in any Urban Expansion or Rural Preservation District
5. Lot width - 100 feet
6. Lot area - one (1) acre
7. Lot depth - 150 feet
8. Lot coverage - Not more than 30 percent of any lot shall be occupied by buildings

*NOTE: #2 - #7 are minimum requirements

Subdivision 6.0 General Regulations

Additional requirements for signs, parking, and other regulations in the I - INDUSTRY DISTRICT are set forth in Section XII ó General Regulations and Section XX ó Signs.

BOLTON & MENK, INC.

Consulting Engineers & Surveyors

**Airport Safety Zoning Ordinance for
the Granite Falls Municipal Airport**



Adoption Date – *January 4th, 2012*

Approved by the Joint Airport Zoning Board

**This ordinance amends and replaces Granite Falls Airport Zoning Ordinance
adopted June, 1996.**

Table of Contents

1		
2		
3	TITLE AND INTRODUCTION.....	2
4	SECTION I: PURPOSE AND AUTHORITY.....	3
5	SECTION II: SHORT TITLE.....	4
6	SECTION III: DEFINITIONS.....	4
7	SECTION IV: AIR SPACE OBSTRUCTION ZONING.....	6
8	SECTION V: LAND USE SAFETY ZONING.....	8
9	SECTION VI: AIRPORT MAPS	11
10	SECTION VII: NONCONFORMING USES.....	11
11	SECTION VIII: PERMITS.....	11
12	SECTION X: HAZARD MARKING AND LIGHTING	13
13	SECTION XI: AIRPORT ZONING ADMINISTRATOR.....	14
14	SECTION XII: BOARD OF ADJUSTMENT.....	14
15	SECTION XIII: APPEALS	15
16	SECTION XIV: JUDICIAL REVIEW.....	16
17	SECTION XV: PENALTIES	16
18	SECTION XVI: CONFLICTS.....	16
19	SECTION XVII: SEVERABILITY.....	17
20	SECTION XVIII: EFFECTIVE DATE.....	17
21	EXHIBIT A.....	18
22	EXHIBIT B1 AIR SPACE (RUNWAYS 15-33, 16-34 & 8-26)	
23	EXHIBIT B2 AIR SPACE (RUNWAYS 15-33, 16-34 & 8-26) - SOUTH APPROACH	
24	EXHIBIT B3 AIR SPACE (RUNWAYS 15-33, 16-34 & 8-26) - NORTH APPROACH	
25	EXHIBIT C1 AIR SPACE (RUNWAYS 16-34 & 8-26)	
26	EXHIBIT C2 AIR SPACE (RUNWAYS 16-34 & 8-26) - SOUTH APPROACH	
27	EXHIBIT C3 AIR SPACE (RUNWAYS 16-34 & 8-26) - NORTH APPROACH	
28	EXHIBIT D1 LAND USE SAFETY ZONES (RUNWAYS 15-33, 16-34 & 8-26)	
29	EXHIBIT D2 LAND USE SAFETY ZONES (RUNWAYS 16-34 & 8-26)	

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TITLE AND INTRODUCTION

**GRANITE FALLS MUNICIPAL AIRPORT ZONING ORDINANCE
GRANITE FALLS MUNICIPAL AIRPORT JOINT AIRPORT ZONING BOARD**

**AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND
OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY,
IN THE VICINITY OF THE GRANITE FALLS MUNICIPAL AIRPORT BY CREATING THE
APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR
CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING
CERTAIN TERMS USED HEREIN; REFERRING TO THE GRANITE FALLS MUNICIPAL
AIRPORT ZONING EXHIBITS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS
ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF
ADJUSTMENT; AND IMPOSING PENALTIES.**

**IT IS HEREBY ORDAINED BY THE GRANITE FALLS MUNICIPAL AIRPORT JOINT AIRPORT
ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES
SECTION 360.061 THROUGH 360.074, AS FOLLOWS:**

49 **SECTION I: PURPOSE AND AUTHORITY**

50 The Granite Falls Municipal Airport Joint Airport Zoning Board, created and established by joint action
51 of the City Council of the City of Granite Falls, the Board of Commissioners of Yellow Medicine County,
52 and the Town Board of Minnesota Falls pursuant to the provisions and authority of Minnesota Statutes
53 Section 360.063, hereby finds and declares that:

- 54 A. An airport hazard endangers the lives and property of users of the Granite Falls Municipal Airport,
55 and property or occupants of land in its vicinity; and also if of the obstructive type, in effect reduces
56 the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to
57 destroy or impair the utility of said Airport and the public investment therein.
- 58 B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region
59 served by the Granite Falls Municipal Airport.
- 60 C. For the protection of the public health, safety, order, convenience, prosperity, and general welfare,
61 and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or
62 establishment of airport hazards.
- 63 D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by
64 the exercise of the police power without compensation.
- 65 E. The prevention of the creation or establishment of airport hazards, and the elimination, removal,
66 alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for
67 which political subdivisions may raise and expend public funds.
- 68 F. The Granite Falls Municipal Airport is an essential public facility that serves an important public
69 transportation role and provides a public good.
- 70 H. The Transportation section of Chapter 6: Vision Statements, Goals, Objectives and Strategies of the
71 Yellow Medicine County Comprehensive Plan, April 2006 states in Objective 3 that “The County
72 needs to work in partnership with cities, townships, the Upper Sioux Community, regional counties
73 and cities, the Area Transportation Partnership and Minnesota Department of Transportation
74 (Mn/DOT) to provide a transportation system and road network that moves people and products
75 economically.” The plan identifies a strategy of “Work[ing] to ensure that the transportation system
76 and road network encourages employment and growth and opportunities throughout the entire
77 County” (Strategy 3). The airport zoning process is a cooperative effort in part by the City of
78 Granite Falls and Yellow Medicine County and Minnesota Falls Township to allow for growth and
79 opportunities within the region; as such, the goals of the County are advanced.
- 80 I. This Ordinance amends and replaces the Granite Falls Municipal Airport Zoning Ordinance dated
81 June 1st, 1996.

82

83 **SECTION II: SHORT TITLE**

84 This Ordinance shall be known as the "Airport Safety Zoning Ordinance for the Granite Falls Municipal
85 Airport." Those sections of land affected by this Ordinance are indicated in Exhibit "A", which is
86 attached to this Ordinance.

87

88 **SECTION III: DEFINITIONS**

89 As used in this Ordinance, unless the context otherwise requires:

90 "*AIRPORT*" means the Granite Falls Municipal Airport located in Section 21, Township 115, Range 39.

91 "*AIRPORT ELEVATION*" means the established elevation of the highest point on the usable landing area.

92 The elevation is established to be 1,047 feet above mean sea level while Runway 15-33 is in commission.

93 At a point when Runway 16-34 is constructed and Runway 15-33 is decommissioned, the airport

94 elevation shall be 1,050' above mean sea level.

95 "*AIRPORT HAZARD*" means any structure, tree, or use of land which obstructs the air space required for,
96 or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of
97 land which is hazardous to persons or property because of its proximity to the airport.

98 "*COMMISSIONER*" means the Commissioner of the Minnesota Department of Transportation.

99 "*CONFORMING USE*" means any structure, tree, or object of natural growth, or use of land that
100 complies with all the applicable provisions of this Ordinance or any amendment to this ordinance.

101 "*DWELLING*" means any building or portion thereof designed or used as a residence or sleeping place of
102 one or more persons.

103 "*ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT UP URBAN AREA*" (ERN - BUUA)
104 means an area which, if it existed on or before January 1, 1978 shall be considered a conforming use that
105 shall not be prohibited.

106 "*HEIGHT*," for the purpose of determining the height limits in all zones set forth in this Ordinance and
107 shown on the exhibits, the datum shall be mean sea level elevation unless otherwise specified.

108 "*LANDING AREA*" means the area of the airport used for the landing, taking off, or taxiing of aircraft.

109 "*LOW DENSITY RESIDENTIAL STRUCTURE*" means a single-family or two-family home.

110 "*LOW DENSITY RESIDENTIAL LOT*" means a single lot located in an area which is zoned for single-
111 family or two-family residences and in which the predominant land use is such type of residences.

112 "*NONCONFORMING USE*" means any pre-existing structure, tree, natural growth, or land use which is
113 inconsistent with the provisions of this Ordinance or an amendment hereto.

114 "*NONPRECISION INSTRUMENT RUNWAY*" means a runway having an existing or planned straight-in
115 instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for
116 which no precision approach facilities are planned or indicated on an approved planning document.

117 **“OTHER THAN UTILITY RUNWAY”** means a runway that is constructed for and intended to be used by
118 jet aircraft or aircraft of more than 12,500 pounds maximum gross weight; or is 4,900 feet or more in
119 length.

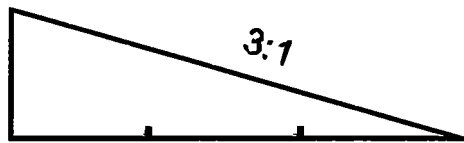
120 **“PERSON”** means an individual, firm, partnership, corporation, company, association, joint stock
121 association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian,
122 or other representative.

123 **“PLANNED,”** as used in this Ordinance, refers only to those proposed future airport developments that
124 are so indicated on a planning document having the approval of the Federal Aviation Administration,
125 Minnesota Department of Transportation Office of Aeronautics, and the City of Granite Falls.

126 **“PRECISION INSTRUMENT RUNWAY”** means a runway having an existing instrument approach
127 procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a
128 Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system
129 capable of operating to the same level of precision guidance provided by the other included systems.
130 Also, a runway for which a precision instrument approach system is planned and is so indicated on an
131 approved planning document.

132 **RUNWAY”** means any existing or planned paved surface or turf covered area of the airport which is
133 specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

134 **SLOPE”** means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to
135 vertical magnitude.



136

137 Slope = 3:1 = 3 feet horizontal to 1 foot vertical

138 **“STRUCTURE”** means an object constructed or installed by man, including, but without limitations,
139 buildings, towers, smokestacks, earth formations, and overhead transmission lines.

140 **“TRAVERSE WAYS,”** for the purpose of determining height limits as set forth in this Ordinance, shall be
141 increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the
142 height of the highest mobile object that would normally traverse the road, whichever is greater, for private
143 roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an
144 amount equal to the height of the highest mobile object that would normally traverse it.

145 **“TREE”** means any object of natural growth.

146 **“UTILITY RUNWAY”** means a runway that is constructed for, and intended to be used by propeller-driven
147 aircraft of 12,500 pounds maximum gross weight and less; and is less than 4,900 feet in length.

148 “*VISUAL RUNWAY*” means a runway intended solely for the operation of aircraft using visual approach
149 procedures, with no straight-in instrument approach procedure and no instrument designation indicated on
150 an approved planning document.

151 “*WATER SURFACES*” for the purpose of this ordinance, shall have the same meaning as land for the
152 establishment of protected zones.

153

154 **SECTION IV: AIR SPACE OBSTRUCTION ZONING**

155 A. **AIR SPACE ZONES:** In order to carry out the purpose of this Ordinance, as set forth above, the
156 following air space zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone,
157 Approach Zone, Precision Instrument Approach Zone, and Transitional Zone. The locations and
158 dimensions of these air space zones are as follows and as displayed in Exhibits B1, B2, and B3,
159 except as provided for in Section XVII-C, at which time Exhibits C1, C2, and C3 shall illustrate the
160 locations and dimensions of air space:

161 1. **PRIMARY ZONE:** All that land which lies directly under an imaginary primary surface
162 longitudinally centered on a runway and:

163 a. Extending 200 feet beyond each end of Runway 15-33 until the runway is
164 decommissioned. At that point, there shall be no primary zone for Runway 15-33.

165 b. Extending 200 feet beyond each end of Runway 16-34.

166 c. Coinciding with each end of Runway 8-26.

167 The elevation of any point on the primary surface is the same as the elevation of the nearest
168 point on the runway centerline.

169 The width of the primary surface is:

170 d. 1,000 feet for Runway 16-34.

171 e. 500 feet for Runway 15-33 until the runway is decommissioned. At that point, there
172 shall be no primary zone for Runway 15-33.

173 f. 250 feet for Runway 8-26.

174 2. **HORIZONTAL ZONE:** All that land which lies directly under an imaginary horizontal
175 surface 150 feet above the established airport elevation or a height of 1,197 feet above mean
176 sea level, the perimeter of the Horizontal Zone is constructed by swinging arcs of 10,000 feet
177 from the center of each end of the primary surface of Runway 16-34 and Runway 15-33 and
178 connecting the adjacent arcs by lines tangent to those arcs. At a point when Runway 15-33 is
179 decommissioned, there shall be no 10,000 foot arc associated with Runway 15-33 and the
180 height of the horizontal zone associated with Runway 16-34 shall be 1,200 feet above mean
181 sea level.

- 182 3. **CONICAL ZONE:** All that land which lies directly under an imaginary conical surface
183 extending upward and outward from the periphery of the horizontal surface at a slope of 20:1
184 for a horizontal distance of 4,000 feet as measured outward from the periphery of the
185 horizontal surface.
- 186 4. **APPROACH ZONE:** All that land which lies directly under an imaginary approach surface
187 longitudinally centered on the extended centerline at each end of a runway. The inner edge of
188 the approach surface is at the same width and elevation as, and coincides with, the end of the
189 primary surface. The approach surface inclines upward and outward at a slope of:
190 a. 34:1 for Runway 15-33 until the runway is decommissioned. At that point, there shall
191 be no approach zone for Runway 15-33.
192 b. 20:1 for Runway 8-26.
193 The approach surface expands uniformly to a width of:
194 c. 3,500 feet for Runway 15-33 at a distance of 10,000 feet, then continues at the same
195 rate of divergence to the periphery of the conical surface until the runway is
196 decommissioned. At that point, there shall be no approach surface for Runway 15-33.
197 d. 1,250 feet for Runway 8-26 at a distance of 5,000 feet, then continues at the same rate
198 of divergence to the periphery of the conical surface.
- 199 5. **PRECISION INSTRUMENT APPROACH ZONE:** All that land which lies directly under an
200 imaginary precision instrument approach surface longitudinally centered on the extended
201 centerline at each end of Runway 16-34, a precision instrument runway. The inner edge of the
202 precision instrument approach surface is at the same width and elevation as, and coincides
203 with, the end of the primary surface. The precision instrument approach surface inclines
204 upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding
205 uniformly to a width of 4,000 feet, then continues upward and outward for an additional
206 horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate
207 width of 16,000 feet.
- 208 6. **TRANSITIONAL ZONE:** All that land which lies directly under an imaginary surface
209 extending upward and outward at right angles to the runway centerline and centerline
210 extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the
211 approach surfaces until they intersect the horizontal surface or the conical surface.
212 Transitional surfaces for those portions of the precision instrument approach surface which
213 project through and beyond the limits of the conical surface, extend a distance of 5,000 feet
214 measured horizontally from the edge of the precision instrument approach surface and at right
215 angles to the extended precision instrument runway centerline.
216

217 B. **HEIGHT RESTRICTIONS:** Except as otherwise provided in this Ordinance, and except as
218 necessary and incidental to airport operations, no structure or tree shall be constructed, altered,
219 maintained, or allowed to grow in any air space zone created in SECTION IV A so as to project
220 above any of the imaginary air space surfaces described in said SECTION IV A hereof. Where an
221 area is covered by more than one height limitation, the more restrictive limitation shall prevail.
222

223 C. **BOUNDARY LIMITATIONS:** The air space obstruction height zoning restrictions set forth in this
224 section shall apply for a distance not to exceed one and one half miles beyond the perimeter of the
225 airport boundary and in that portion of an airport hazard area under the approach zone for a distance
226 not exceeding two miles from the airport boundary.
227

228 **SECTION V: LAND USE SAFETY ZONING**

229 A. **SAFETY ZONE BOUNDARIES:** In order to carry out the purpose of this Ordinance, as set forth
230 above, to restrict those uses which may be hazardous to the operational safety of aircraft operating
231 to and from the Granite Falls Municipal Airport, and, furthermore, to limit population and building
232 density in the runway approach areas, thereby creating sufficient open space to protect life and
233 property in case of an accident, as illustrated in Exhibit D1, except as provided for in Section XVII-
234 C at which time Exhibit D2 shall illustrate the land use safety zones, there are hereby created and
235 established the following land use safety zones:
236

- 237 1. **SAFETY ZONE A:** All land in that portion of the approach zones of a runway, as defined in
238 SECTION IV A hereof, which extends outward from the end of the primary surface a
239 distance equal to two-thirds of the planned length of the runway, which distance shall be:
240 a. 2,900 feet for Runway 15-33 until the runway is decommissioned. At that point, there
241 shall be no Safety Zone A for Runway 15-33.
242 b. 3,667 feet for Runway 16-34.
243 c. 1,667 feet for Runway 8-26.
244
- 245 2. **SAFETY ZONE B:** All land in that portion of the approach zones of a runway, as defined in
246 SECTION IV A hereof, which extends outward from Safety Zone A
247 a distance equal to one-third of the planned length of the runway,
248 which distance shall be:
249 a. 1,450 feet for Runway 15-33 until the runway is decommissioned. At that point there
250 shall be no Safety Zone B for Runway 15-33.
251 b. 1,833 feet for Runway 16-34.
252 c. 833 feet for Runway 8-26.

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3. **SAFETY ZONE C:** All land which is enclosed within the perimeter of the horizontal zone, as defined in SUBSECTION IV A hereof, and which is not included in Safety Zone A or Safety Zone B.

4. **EXCEPTIONS – ESTABLISHED RESIDENTIAL NEIGHBORHOODS:**
There are no areas designated as Established Residential Neighborhoods in Built up Urban Areas based upon the status of development existing on January 1, 1978.

B. USE RESTRICTIONS:

1. **GENERAL:** Subject at all times to the height restrictions set forth in SECTION IV B, no use shall be made of any land in any of the safety zones defined in SECTION V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. **ZONE A:** Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

3. **ZONE B:** Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:

- a. Each use shall be on a site whose area shall not be less than three acres.
- b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
- c. Each site shall have no more than one building plot upon which any number of structures may be erected.

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- d. A building plot shall be a single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area		Ratio of Building Site Area to Bldg. Plot Area	Max. Site Plot Area (sq. ft.)	Population (15 persons/acre)
At least (acres)	But Less Than (acres)			
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,600	90
10	20	6:1	72,500	150
20	and up	4:1	218,000	300

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- e. The following uses are specifically prohibited in Zone B:
Churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

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- 4. ZONE C: Zone C is subject only to height restrictions set forth in SECTION IV B, and to the general restrictions contained in SECTION V B 1.

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- 5. EXEMPTIONS – ESTABLISHED RESIDENTIAL NEIGHBORHOODS
There are no areas designated as Established Residential Neighborhoods in Built up Urban Areas based upon the status of development existing on January 1, 1978.

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- C. BOUNDARY LIMITATIONS: The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

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- D. BOUNDARY ASSURANCES: A certified survey prepared by a licensed land surveyor shall be required to be submitted with a building permit application for properties that are entirely or partially contained within Land Use Safety Zones A and B, unless the Zoning Administrator determines the proposed building site is clearly outside said Safety Zones. For any location within the air space jurisdiction of this ordinance, the Zoning Administrator may require a survey that

315 shows the elevation of a proposed structure will conform to the air space requirements of this
316 ordinance.

317
318 **SECTION VI: AIRPORT MAPS**

319 The several zones herein established are shown in Exhibits B1 Airspace (Runways 15-33, 16-34 & 8-26),
320 B2 Airspace (Runways 15-33, 16-34 & 8-26) South Approach, B3 - Airspace (Runways 15-33, 16-34 &
321 8-26) North Approach, C1 Airspace (Runways 16-34 & 8-26), C2 Airspace (Runways 16-34 & 8-26) –
322 South Approach, C3 (Runways 16-34 & 8-26) North Approach, D1 Land Use Safety Zones (Runways 15-
323 33, 16-34 & 8-26), and D2 Land Use Safety Zones (Runways 16-34 & 8-26) consisting of 8 sheets, and
324 have been prepared by Bolton and Menk, Inc., and dated 4/26/11, attached hereto and made a part hereof,
325 which together with such amendments thereto as may from time to time be made, and all notations,
326 references, elevations, data, zone boundaries, and other information thereon, shall be and the same is
327 hereby adopted as part of this Ordinance. Refer to the local land use authority for underlying land use and
328 zoning designations, as well as Section XVI for guidance on conflicts between regulations.

329
330 **SECTION VII: NONCONFORMING USES**

331 Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to
332 require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the
333 regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any
334 nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or
335 intended use of any structure, the construction or alteration of which was begun prior to the effective date
336 of this Ordinance, and is diligently prosecuted and completed within two years thereof.

337
338 **SECTION VIII: PERMITS**

339 A. **FUTURE USES:** Except as specifically provided in Paragraphs 1 and 2 hereunder, no material
340 change shall be made in the use of land and no structure shall be erected, altered, or otherwise
341 established in any zone hereby created unless a permit therefore shall have been applied for and
342 granted by the zoning administrator, hereinafter, provided for. Each application for a permit shall
343 indicate the purpose for which the permit is desired, with sufficient particularity to permit it to
344 conform to the regulations herein prescribed. If such determination is in the affirmative, the permit
345 shall be granted.

- 346 1. However, a permit for a tree or structure of less than 75 feet of vertical height above the
347 ground shall not be required in the horizontal and conical zones or in any approach and
348 transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway

349 except when such tree or structure, because of terrain, land contour, or topographic features,
350 would extend the height or land use limit prescribed for the respective zone.
351 2. Nothing contained in this foregoing exception shall be construed as permitting or intending to
352 permit any construction, alteration, or growth of any structure or tree in excess of any of the
353 height limitations established by this ordinance as set forth in SECTION IV and the land use
354 limitations set forth in SECTION V.

355

356 B. **EXISTING USES:** Before any existing use or structure may be replaced, substantially altered or
357 repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such
358 replacement, change, or repair. No permit shall be granted that would allow the establishment or
359 creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater
360 hazard to air navigation than it was on the effective date of this Ordinance or any amendments
361 thereto, or than it is when the application for a permit is made. Except as indicated, all applications
362 for such a permit shall be granted.

363

364 C. **NONCONFORMING USES ABANDONED OR DESTROYED:** Whenever the zoning
365 administrator determines that a nonconforming structure or tree has been abandoned or more than
366 80% torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure
367 or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
368 Whether application is made for a permit under this paragraph or not, the zoning administrator may
369 order the owner of the abandoned or partially destroyed nonconforming structure, at his own
370 expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to
371 the provisions of this Ordinance. In the event the owner of the nonconforming structure shall
372 neglect or refuse to comply with such order for ten days after receipt of written notice of such order,
373 the zoning administrator may, by appropriate legal action, proceed to have the abandoned or
374 partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and
375 assess the cost and expense thereof against the land on which the structure is or was located.
376 Unless such an assessment is paid within ninety days from the service of notice thereof on the
377 owner of the land, the sum shall bear interest at the rate of eight percent per annum from the date
378 the cost and expense is incurred until paid, and shall be collected in the same manner as are general
379 taxes.

380

381 **SECTION IX: VARIANCES**

382 Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use
383 his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board
384 of Adjustment, hereinafter provided for, for a variance from such regulations. If the Board of Adjustment
385 fails to grant or deny the variance within the timeframe established within Minnesota State Statutes 15.99,
386 the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the
387 failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the
388 Commissioner, by certified mail, that the variance has been granted. The applicant shall include a copy of
389 the original application for the variance with this notice to the Commissioner. The variance shall be
390 effective sixty days after this notice is received by the Commissioner subject to any action taken by the
391 Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6a. Such variances shall be
392 allowed where it is duly found that a literal application or enforcement of the regulations would result in
393 practical difficulty or unnecessary hardship, and relief granted would not be contrary to the public interest
394 but do substantial justice and be in accordance with the spirit of this Ordinance provided any variance so
395 allowed may be subject to any reasonable conditions that the Board or Commissioner may deem
396 necessary to effectuate the purpose of this Ordinance.

397
398 The Zoning Administrator shall forward the request to the Minnesota Department of Transportation
399 Office of Aeronautics for review and comment prior to consideration of the request by the Board of
400 Adjustment.

401
402 **SECTION X: HAZARD MARKING AND LIGHTING**

403 A. **NONCONFORMING USES:** The owner of any nonconforming structure or tree is hereby required
404 to permit the installation, operation, and maintenance thereon of such markers and lights as shall be
405 deemed necessary by the zoning administrator, to indicate to the operators of aircraft in the vicinity
406 of the airport the presence of such airport hazards. Such markers and lights shall be installed,
407 operated, and maintained at the expense of the City of Granite Falls.

408
409 B. **PERMITS AND VARIANCES:** Any permit or variance deemed advisable to effectuate the
410 purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning
411 administrator or Board, shall require the owner of the structure or tree in question, at his own
412 expense, to install, operate, and maintain thereon such markers and lights as may be necessary to
413 indicate to pilots the presence of an airport hazard.

414

415 **SECTION XI: AIRPORT ZONING ADMINISTRATOR**

416 It shall be the duty of the City of Granite Falls Zoning Administrator to administer and enforce the
417 regulations prescribed herein. Applications for permits and variances shall be made to the Granite Falls
418 Zoning Administrator upon a form furnished by them. Permit applications shall be promptly considered
419 and granted or denied by them in accordance with the regulations prescribed herein or as provided for
420 within Minnesota State Statutes 15.99. Variance applications shall be forthwith transmitted by the
421 Granite Falls Zoning Administrator to the Board of Adjustment for action as hereinafter provided for.

422

423 **SECTION XII: BOARD OF ADJUSTMENT**

424 A. **ESTABLISHMENT:** The Granite Falls Board of Adjustment, which is also the Granite Falls
425 Planning Commission, shall serve as the Board of Adjustment for the Granite Falls Municipal
426 Airport Zoning Ordinance.

427

428 B. **POWERS:** The Board of Adjustment shall have and exercise the following powers:

429 1. Hear and decide appeals from any order, requirement, decision, or determination made by the
430 administrator in the enforcement of this Ordinance.

431 2. Hear and decide special exceptions to the terms of this Ordinance upon which such Board of
432 Adjustment under such regulations may be required to pass.

433 3. Hear and decide specific variances.

434

435 C. **PROCEDURES:**

436 1. A request for a variance or an appeal to the Zoning Administrator's ruling shall be filed with
437 the Zoning Administrator. The Zoning Administrator shall forward the request to the
438 Minnesota Department of Transportation Office of Aeronautics for review and comment prior
439 to consideration of the request by the Board of Adjustment.

440 2. Rules governing the Board of Adjustment shall be consistent with those established by the
441 body serving as the Board of Adjustment and the provisions of this Ordinance. Meetings of
442 the Board of Adjustment shall be held at the call of the Zoning Administrator or chairperson
443 and at such other times as the Board of Adjustment may determine. The chairperson, or in
444 his absence the acting chairperson, may administer oaths and compel the attendance of
445 witnesses. All hearings of the Board of Adjustment shall be public. The Board of
446 Adjustment shall keep minutes of its proceedings showing the vote of each member upon
447 each question or, if absent or failing to vote, indicating such fact, and shall keep records of its

448 examinations and other official actions, all of which shall immediately be filed in the office
449 of the Zoning Administrator, and County Recorder's Office and shall be a public record.

- 450 3. The Board of Adjustment shall make written findings of facts and conclusions of law giving
451 the facts upon which it acted and its legal conclusions from such facts in reversing, affirming,
452 or modifying any order, requirement, decision, or determination which comes before it under
453 the provisions of this ordinance.
- 454 4. The concurring vote of a majority of the members of the Board of Adjustment shall be
455 sufficient to reverse any order, requirement, decision, or determination of the zoning
456 administrator or to decide in favor of the applicant on any matter upon which it is required to
457 pass under this Ordinance, or to effect any variation in this Ordinance.

458
459 **SECTION XIII: APPEALS**

- 460 A. Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made
461 in his administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may
462 also be made by any governing body of a municipality, county, or airport zoning board, which is of
463 the opinion that a decision of the zoning administrator is an improper application of this Ordinance
464 as it concerns such governing body or board.
- 465
466 B. All appeals hereunder must be commenced within 30 days of the zoning administrator's decision,
467 by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The
468 Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers
469 constituting the record upon which the action appealed from was taken. In addition, any person
470 aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his
471 administration of this Ordinance who desires to appeal such decision shall submit an application for
472 a variance, by certified mail, to the Zoning Administrator in the manner set forth in Minnesota
473 Statutes Section 360.068, Subdivision 2.
- 474
475 C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning
476 administrator certifies to the Board of Adjustment after the notice of appeal has been filed with it,
477 that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril
478 to life or property. In such case, proceedings shall not be stayed except by order of the Board of
479 Adjustment on notice to the zoning administrator and on due cause shown.

481 D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due
482 notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing,
483 any party may appear in person, by agent, or by attorney.

484
485 E. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or
486 affirm, in whole or in part, or modify the order, requirement, decision or determination appealed
487 from and may make such order, requirement, decision or determination, as may be appropriate
488 under the circumstances, and to that end shall have all the powers of the zoning administrator.

489
490 **SECTION XIV: JUDICIAL REVIEW**

491 Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any
492 governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision
493 of the Board of Adjustment is illegal may present to the District Court of Yellow Medicine or Chippewa
494 County a verified petition setting forth that the decision or action is illegal, in whole or in part, and
495 specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after
496 the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies
497 provided in this Ordinance before availing himself of the right to petition a court as provided by this
498 section.

499
500 **SECTION XV: PENALTIES**

501 Every person who shall construct, establish, substantially change, alter or repair any existing structure or
502 use, or permit the growth of any tree without having complied with the provision of this Ordinance or
503 who, having been granted a permit or variance under the provisions of this Ordinance, shall construct,
504 establish, substantially change or substantially alter or repair any existing growth or structure or permit
505 the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor
506 and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by
507 both. Each day a violation continues to exist shall constitute a separate offense. The airport zoning
508 administrator may enforce all provisions of this Ordinance through such proceedings for injustice relief
509 and other relief as may be proper under the laws of Minnesota Statutes Section 360.073 and other
510 applicable law.

511
512 **SECTION XVI: CONFLICTS**

513 Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance
514 and any other regulations applicable to the same area, whether the conflict is with respect to the height of

515 structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall
516 govern and prevail.

517

518 **SECTION XVII: SEVERABILITY**

519 A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a
520 court to interfere with the use or enjoyment of a particular structure or parcel of land to such an
521 extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a
522 taking or deprivation of that property in violation of the constitution of this state or the constitution
523 of the United States, such holding shall not affect the application of this Ordinance as to other
524 structures and parcels of land, and to this end the provisions of this Ordinance are declared to be
525 severable.

526

527 B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional
528 or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof
529 other than the parts so declared to be unconstitutional or invalid.

530

531 C. At a point when Runway 16-34 is commissioned and Runway 15-33 is decommissioned, the City of
532 Granite Falls, as the airport sponsor, shall pass a resolution officially recognizing that Runway 15-
533 33 has been decommissioned. The resolution shall articulate that the regulations associated with
534 said runway shall no longer be in effect. A copy of the approved resolution shall be filed with the
535 Commissioner through the Office of Aeronautics, State of Minnesota, and the County Recorder's
536 Office, Yellow Medicine and Chippewa Counties, Minnesota.

537

538 **SECTION XVIII: EFFECTIVE DATE**

539 This ordinance shall take effect on the 22nd day of January, 2012.

540 Copies thereof shall be filed with the Commissioner through the Office of Aeronautics,
541 State of Minnesota, and County Recorder's Office, Yellow Medicine and Chippewa Counties, Minnesota.

542

543 Passed and adopted after public hearing by the Granite Falls Municipal Joint Airport Zoning Board this
544 4th day of January, 2012.

545

546

547

FORM NO. 9
(ZONING BOARD ADOPTS ORDINANCE)

**RESOLUTION OF THE
GRANITE FALLS JOINT AIRPORT ZONING BOARD
AS TO FINAL ADOPTION OF A ZONING ORDINANCE**

At a meeting of the above Board held on January 4th, 2012, Member Larry Stoks,
seconded by Member Robin Spaude, introduced the following Resolution and
moved its adoption.

WHEREAS, A public hearing has been held on a proposed zoning ordinance pursuant to
Minnesota Statutes Section 360.065; and

WHEREAS, No changes in said proposed ordinance are necessary;

NOW, THEREFORE, It is hereby resolved as follows:

1. That the Zoning Ordinance and Map attached thereto are hereby adopted.

ROLL CALL

Member	Voted Aye	Voted Nay	Absent from Voting
Chair Paul Michaelson	X		
Robin Spaude	X		
Rob Ator	X		
Randy Jacobson	X		
Larry Stoks	X		
Dwayne Erickson	X		
David Velde	X		

Resolution declared passed: Paul Michaelson
Paul Michaelson, Chairperson

Attest: [Signature]
Secretary

I hereby certify that the foregoing resolution is a true and correct copy of the original resolution.

SEAL OF
NOTARY STATE OF MINNESOTA

JOAN M. TAYLOR
Notary Public-Minnesota
My Commission Expires Jan 31, 2015

Joan M. Taylor
Title City Clerk
Date 1/4/2012

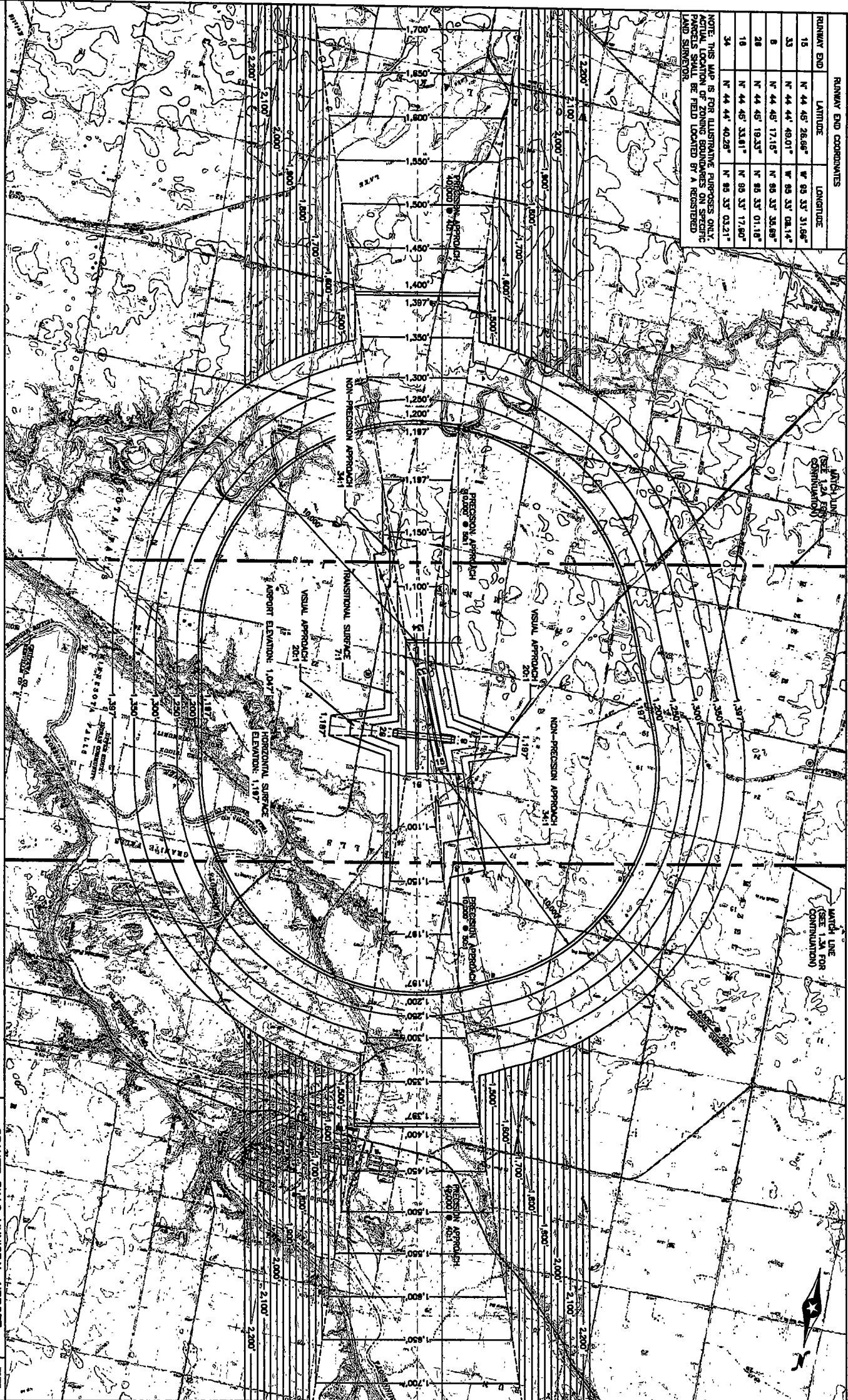
EXHIBIT A
GRANITE FALLS MUNICIPAL AIRPORT ZONING ORDINANCE
This Ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TOWNSHIP	AIR SPACE OBSTRUCTION ZONING: <u>Section IV of Ordinance:</u> B1 - Airspace (Runways 15-33, 16-34 & 8-26), Exhibit B2 – Airspace (Runways 15-33, 16-34 & 8-26) – South Approach, B3 (Runways 15-33, 16-34 & 8-26) – North Approach, C1 Airspace (Runways 16-34 & 8-26), C2 – Airspace (Runways 16-34 & 8-26) – South Approach, and C3 (Runways 16-34 & 8-26) – North Approach	LAND USE SAFETY ZONING: <u>Section V of Ordinance:</u> Exhibit 2 – Land Use Safety Zones
Rosewood Township T117 N R 40 W	Sections: 36	Sections:
Haveclock Township T117 N R 39 W	Sections: 31, 32, 33	Sections:
Sparta Township T116 N R 40 W	Sections: 1, 12, 13, 24, 25	Sections:
Leenthrop Township T116 N R 39 W	Sections: 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 31, 31, 32, 33, 34	Sections:
Granite Falls Township 115 N R 39 W	Sections 4, 9, 16, 21, 22, 26, 27, 33, 34	
Hazel Run Township T115 N R 40 W	Sections: 12, 13, 24	Sections:
Minnesota Falls Township T115 N R 39 W	Sections: 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36	Sections: 7, 8, 9, 10, 114, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 32, 33, 34, 35
Wood Lake Township T114 N R 39 W	Sections: 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36	Sections: 4
Posen Township T113 N R 39 W	Sections: 1, 2, 3, 4, 9,10, 11, 12	Sections:

RUNWAY END COORDINATES

RUNWAY END	LATITUDE	LONGITUDE
15	N 44 48' 26.68"	W 85 33' 31.68"
33	N 44 44' 49.01"	W 85 33' 08.14"
8	N 44 48' 17.18"	W 85 33' 38.89"
26	N 44 48' 18.33"	W 85 33' 01.18"
18	N 44 48' 33.81"	W 85 33' 17.60"
34	N 44 44' 40.28"	W 85 33' 03.21"

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF EXISTING OBSTACLES ON SPECIFIC PLOTS SHOULD BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR.



0 2000 4000
SCALE
FEET

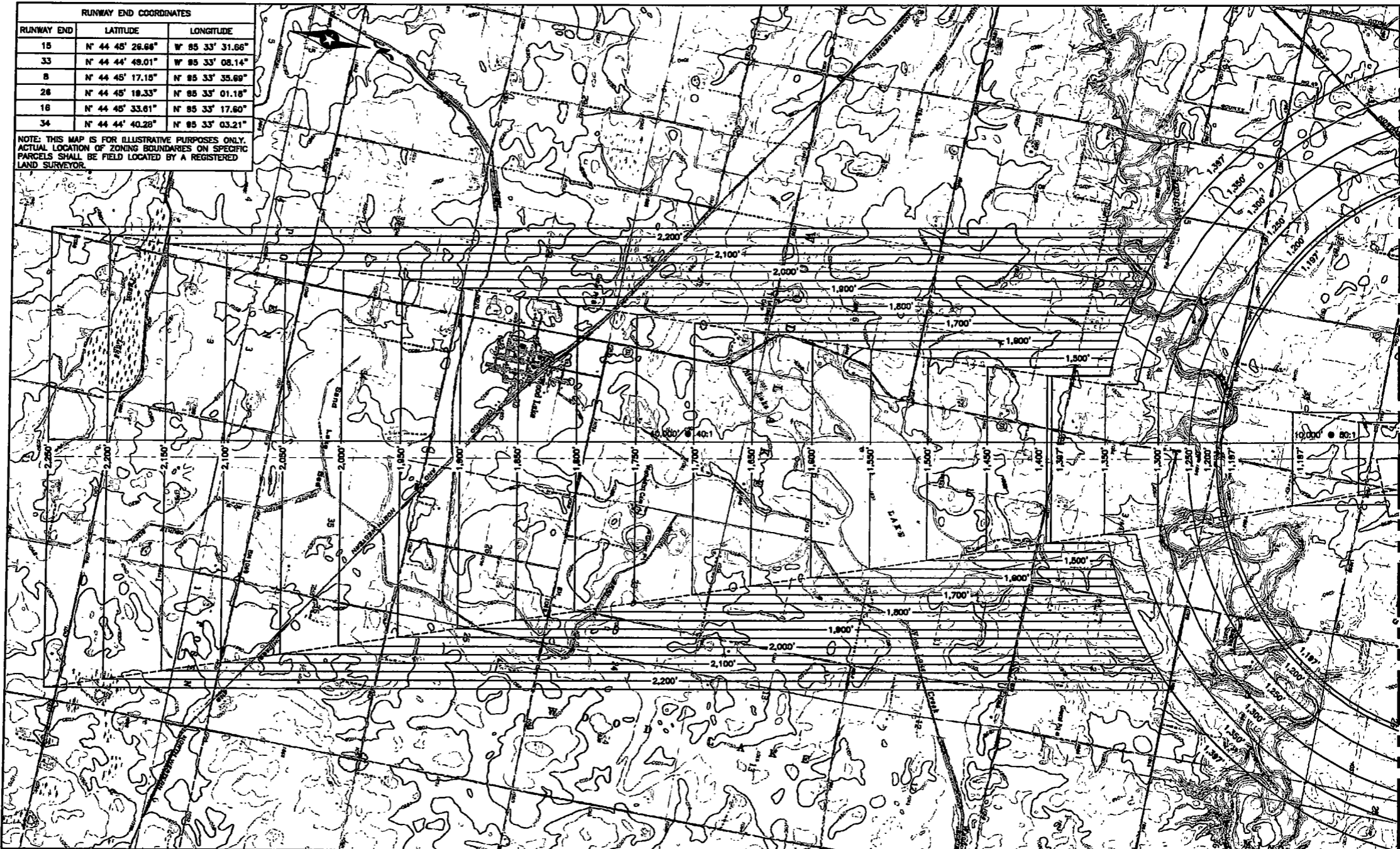
BOLTON & MENK, INC.
Consulting Engineers & Surveyors
1000 W. BROADWAY, SUITE 100
DALLAS, TEXAS 75203
PH: 214.760.1234
FAX: 214.760.1235
WWW.BOLTONMENK.COM

GRANITE FALLS MUNICIPAL AIRPORT
AIR SPACE (RUNWAYS 15-33,
18-34 & 8-26)

EXHIBIT
B1

RUNWAY END COORDINATES		
RUNWAY END	LATITUDE	LONGITUDE
15	N° 44 45' 26.66"	W° 85 33' 31.66"
33	N° 44 44' 49.01"	W° 85 33' 08.14"
8	N° 44 45' 17.18"	N° 85 33' 35.69"
26	N° 44 45' 19.33"	N° 85 33' 01.18"
16	N° 44 45' 33.61"	N° 85 33' 17.60"
34	N° 44 44' 40.28"	N° 85 33' 03.21"

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF ZONING BOUNDARIES ON SPECIFIC PARCELS SHALL BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR.



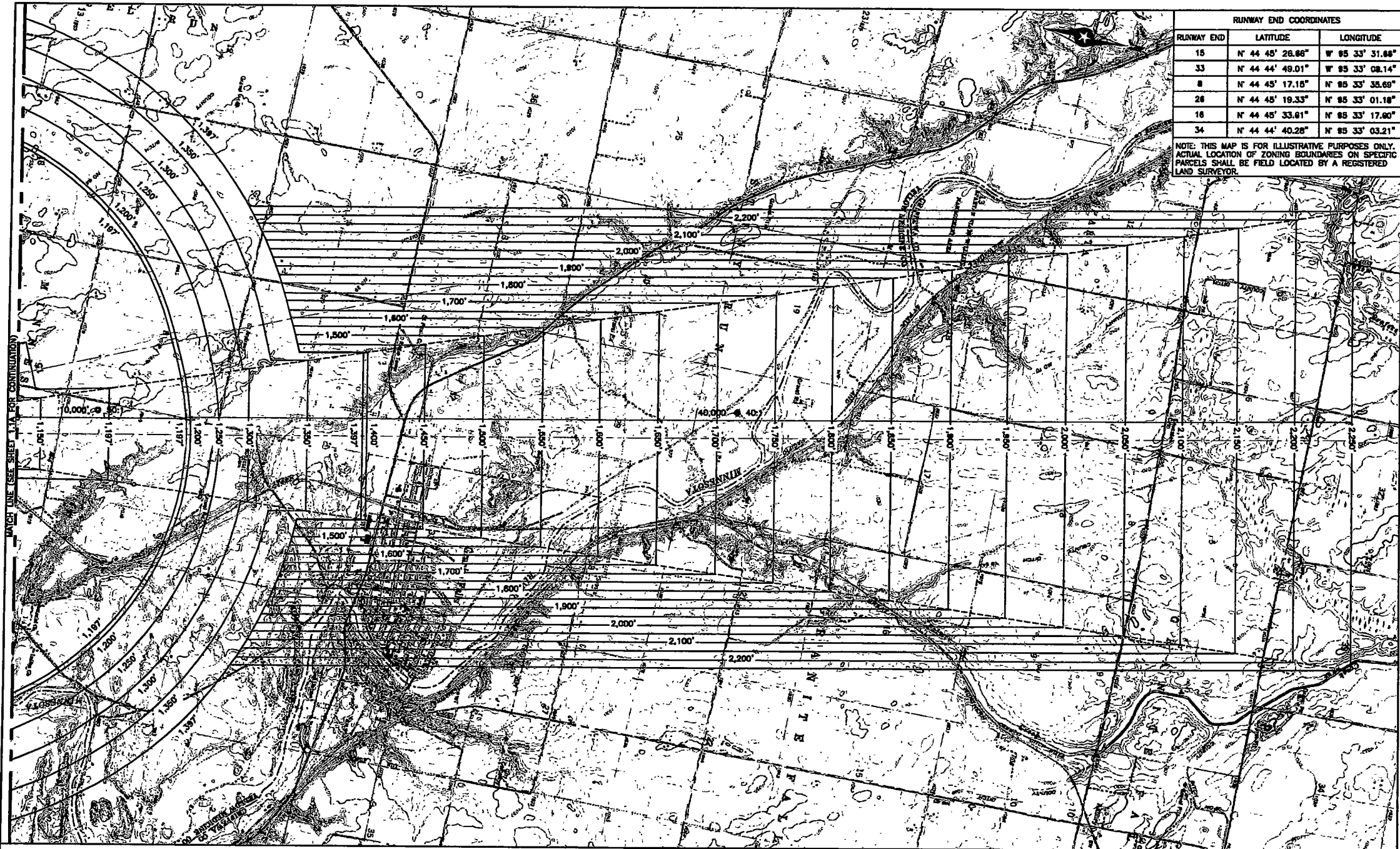
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BOLTON & MENK, INC.
 Consulting Engineers & Surveyors
 WANKATO, MN FARMONT, MN SLEEPY EYE, MN
 BURNSVILLE, MN WILLMAR, MN CHASKA, MN
 RAMSEY, MN MAPLEWOOD, MN BRANDED, MN AMES, IA

GRANITE FALLS MUNICIPAL AIRPORT
 AIR SPACE (RUNWAYS 15-33,
 16-34 & 8-26) - SOUTH APPROACH

EXHIBIT
B2

NAD83 LINE (SEE SHEET 11A FOR CONTINUATION)



RUNWAY END COORDINATES		
RUNWAY END	LATITUDE	LONGITUDE
15	N° 44 45' 26.86"	W° 85 33' 31.88"
33	N° 44 44' 49.01"	W° 85 33' 08.14"
8	N° 44 45' 17.15"	W° 85 33' 35.69"
26	N° 44 45' 19.33"	N° 85 33' 01.18"
16	N° 44 45' 33.91"	N° 85 33' 17.60"
34	N° 44 44' 40.28"	N° 85 33' 03.21"

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF ZONING BOUNDARIES ON SPECIFIC PARCELS SHALL BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR.

CATCH LINE (SEE SHEET 1.A FOR CONTINUATION)



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 161000 101101000 PLANS 101000-1.16-1.24.dwg 4/28/11 2-43.mxd

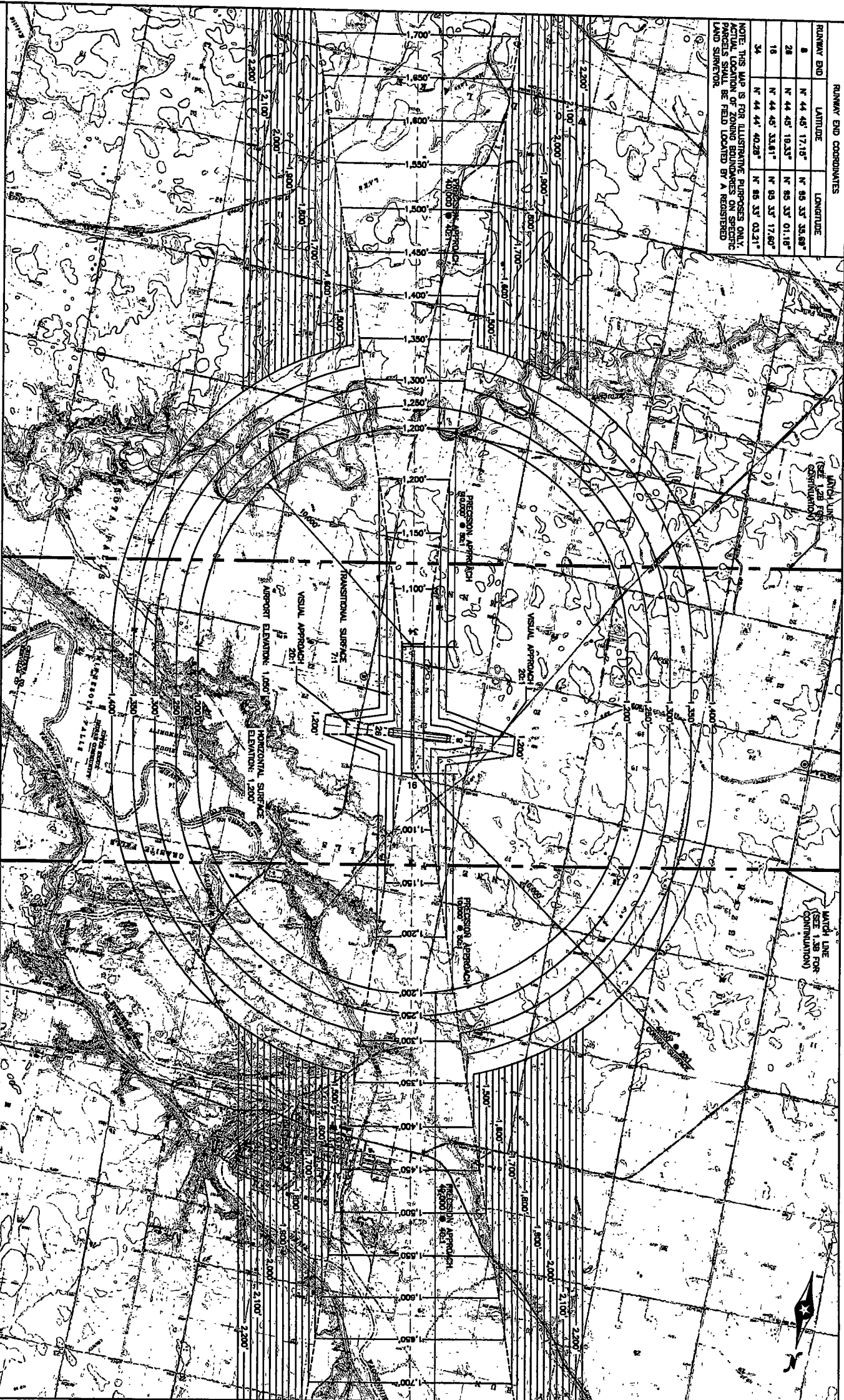
BOLTON & MENK, INC.
 Consulting Engineers & Surveyors
 MANDATO, MN FAIRMONT, MN SLEEPY EYE, MN
 ELLSVILLE, MN WILLMAR, MN CHASKA, MN
 RAMSEY, MN MAPLEWOOD, MN BRAINERD, MN AMES, IA

GRANITE FALLS MUNICIPAL AIRPORT
 AIR SPACE (RUNWAYS 15-33,
 16-34 & 8-26) - NORTH APPROACH

Sheet
B3

RUNWAY END COORDINATES			
RUNWAY END	LATITUDE	LONGITUDE	
8	N 44 45' 17.18"	N 88 33' 35.68"	
28	N 44 45' 19.33"	N 88 33' 01.18"	
16	N 44 45' 33.61"	N 88 33' 17.67"	
34	N 44 44' 40.28"	N 88 33' 03.21"	

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF ZONING BOUNDARIES ON SPECIFIC PARCELS SHALL BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR.



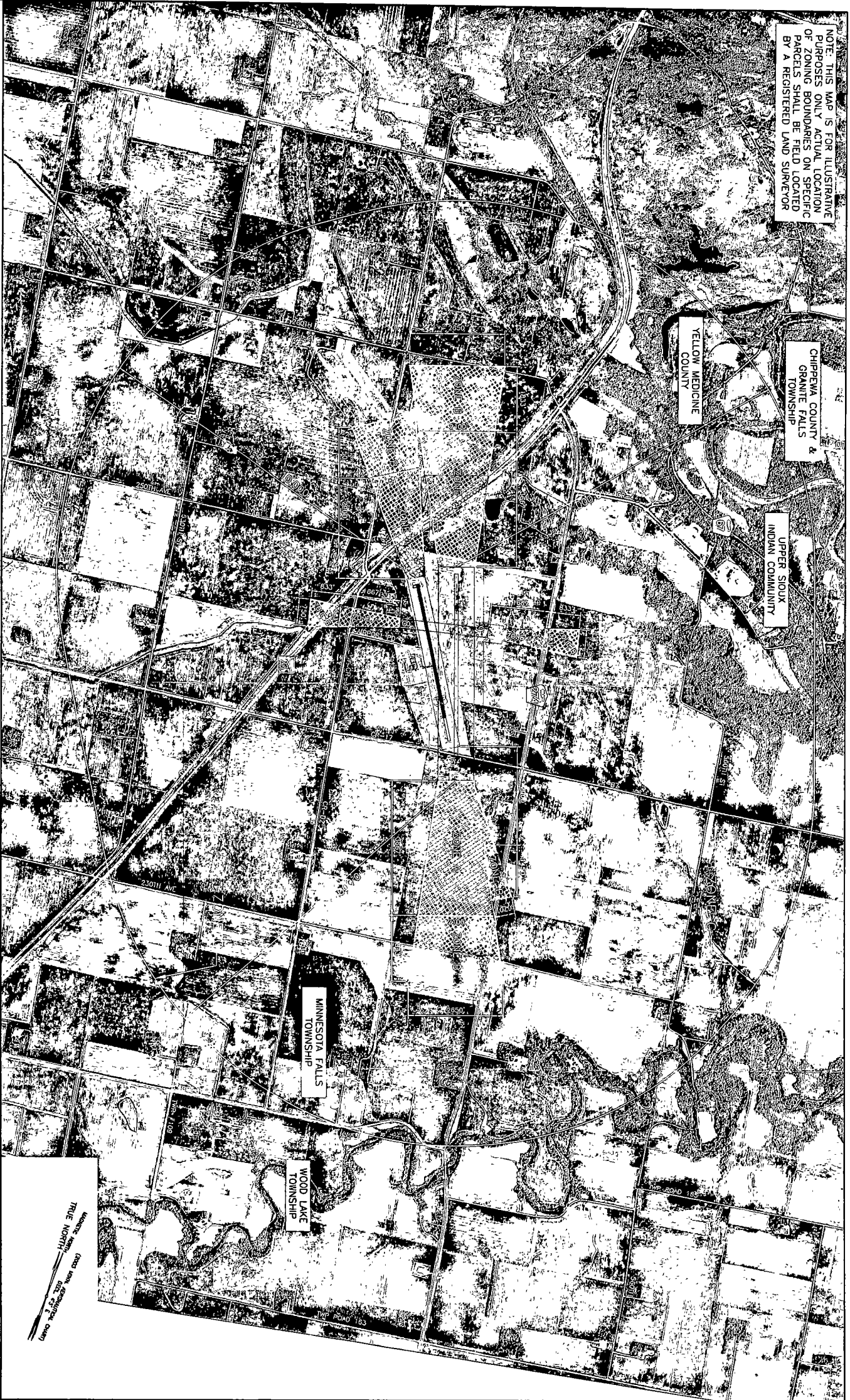
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SCALE
FEET

BOLTON & MENK, INC.
Consulting Engineers & Surveyors
MANASSAS, VA; WASHINGTON, DC; FALLS CHURCH, VA
BIRMINGHAM, AL; CHARLOTTE, NC; CHICAGO, IL
DALLAS, TX; DENVER, CO; HOUSTON, TX; MEMPHIS, TN
MIAMI, FL; NEW YORK, NY; PHOENIX, AZ; RICHMOND, VA
SAN ANTONIO, TX; TAMPA, FL; WASHINGTON, DC

GRANITE FALLS MUNICIPAL AIRPORT
AIR SPACE (RUNWAYS 16-34 & 8-28)

Sheet
C1

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF ZONING BOUNDARIES ON SPECIFIC PARCELS SHALL BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR



BOLTON & MENK, INC.
 Consulting Engineers & Surveyors
 MINNETONKA, MN. FARGO, MN. SLEEPER, MN. WILLMAR, MN.
 BRANDVALL, MN. CHASKA, MN. ROSEAU, MN.

GRANITE FALLS MUNICIPAL AIRPORT
 LAND USE SAFETY ZONES (RUNWAYS 15-33
 16-34 & 8-26)

DRAFT
 D1

NOTE: THIS MAP IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL LOCATION OF ZONING BOUNDARIES ON SPECIFIC PARCELS SHALL BE FIELD LOCATED BY A REGISTERED LAND SURVEYOR



BOLTON & MENK, INC.
Consulting Engineers & Surveyors
MINNAPOLIS, MN FARGO, ND SLEEP EYE, MN WILLIAM, MN
ROSENSTADT, MN CHASKA, MN WAHNETA, MN WALES, MN

GRANITE FALLS MUNICIPAL AIRPORT
LAND USE SAFETY ZONES (RUNWAYS 16-34 & 8-26)

DRAFT
D2

PROPERTY MAP
TRUE NORTH
LOCAL TIME (EST/CDT/MDT) 12:00

SECTION XI -COUNTRYSIDE PUBLIC HEALTH SERVICE NUISANCE ORDINANCE

AN ORDINANCE DEFINING NUISANCES, PROHIBITING THEIR CREATION OR MAINTENANCE AND PROVIDING FOR ABATEMENT AND PENALTIES FOR VIOLATION THEREOF.

Section 100.00 Definitions. The following words, when used in this ordinance, shall have the meanings ascribed to them:

1. Garbage - includes all putrescible animal, vegetable, or other matter that attends the preparation, consumption, display, dealing in or storage of meat, fish, fowl, birds, fruit, or vegetables, including the cans, containers, or wrappers wasted along with such materials.
2. Refuse - includes the following: all solid waste products or those wastes having the character of solids rather than liquids in that they will not flow readily without additional liquid and which are composed wholly or partly of such materials as garbage, sweepings, swill, cleanings, trash, rubbish, industrial solid wastes, or domestic solid wastes; organic wastes or residue of animals sold as meat, fruit, or other vegetable or animal matter from kitchen, dining room, market, food establishment or any place dealing or handling meat, fowl, fruit, grain or vegetables, offal, animal excreta, or the carcass of animals; tree or shrub trimmings, or grass clippings; brick, plaster, wood, metal or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste materials, cans, containers, junk vehicles, ashes, tires, junk, or other such substances which may become a nuisance.
3. Abandoned Property: in the form of deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, and left unprotected from the elements; the term includes, but is not limited to, deteriorated, wrecked, inoperable, or partially dismantled motor vehicles, trailers, plumbing fixtures, and furniture.
4. Hazardous Waste: defined as any refuse, sludge or waste material or combinations of refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics that may (a) cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
5. Litter: means any garbage, refuse, abandoned property, and hazardous waste and additionally includes the meaning given by Minnesota Statutes, Section 609.68.

100.10 Public Nuisances Affecting Health

It is hereby declared to be a public nuisance to permit, maintain, or harbor any of the following:

1. Animals, fish, or fowl, wild or domestic, whether confined or running at large having a contagious disease or condition which endangers public health, safety, or welfare.
2. Carcasses of animals, fish, or fowl, wild or domestic, not buried at least five (5) feet above the seasonal high water table as well as three (3) feet under the surface of the ground or properly destroyed within seventy-two (72) hours after death.
3. Garbage not stored in rodent-free or fly-tight containers, or garbage stored so as to emit foul and disagreeable odors, or garbage stored so as to constitute a hazard to public health.
4. Accumulations of refuse, garbage, litter, abandoned property or hazardous waste as defined herein.
5. The unpermitted dumping of any effluent, garbage, refuse, waste water, or other noxious substance upon public or private property.
6. Any open pit, well, excavation, structure, barrier or other obstruction which endangers public health, safety or welfare.
7. The pollution of any public or private well or cistern, any public stream, lake, groundwater, or other body of water by effluent, garbage, rubbish or other noxious substance.
8. Any obnoxious weeds, or any other vegetation which endangers public health, safety, or welfare, or which is contraband within the meaning of State or Federal laws.
9. The emitting or production of dense smoke, foul odor, noise, noxious gases, soot, cinders, fumes, or sparks in quantities which unreasonably annoys, injures, or endangers the safety, health, or welfare of any number of members of the public.
10. The public exposure of persons having a contagious disease or condition which endangers public health, safety, or welfare.
11. Accumulation of junk, disused furniture, appliances, machinery, automobiles or parts thereof, or any matter which may become a harborage for rats, poisonous snakes, or vermin or which creates a visual blight, or which may be conducive to fire, or which endangers the comfort, repose, health, safety, or welfare of the public.
12. The cause, permitting or maintenance of an abandoned cess-pool, septic tank, or cistern without its being properly filled.
13. Failure to comply with any law or rule regarding sanitation and health including but not limited to: plumbing, water supplies, including wells and surface waters, public facilities, including food, beverage and lodging establishments and day care facilities, waste disposal, swimming pools.

100.20 Enforcement

It shall be the duty of Countryside Community Health Board, by and through its Environmental Health Department to enforce the provisions of this ordinance. The Director of Environmental Health, Sanitarian, or other designated staff member is hereby the delegated authority to enforce the provisions of this ordinance, including such power to inspect private premises as exists by law, issue orders for abatement, issue citations for violations, and abate nuisances. The officers charged with the enforcement of this ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

100.30 Abatement of Nuisance and Assessment of Cost

When any nuisance is found to exist, within Big Stone, Chippewa, Lac Qui Parle, Swift or Yellow Medicine counties, the Health Authority shall order the owner or occupant thereof to remove the same, at the expense of the owner or occupant, within a period not to exceed thirty (30) days, the exact time to be specified in the notice. Upon failure of the owner or occupant to abate the nuisance, Countryside Community Health Board or its designee may cause the said nuisance to be abated and if it elects to do so, shall certify the cost thereof to the County Auditor to be extended on the tax roll of the County, against the real estate from which the nuisance has been abated, all in accordance with Minnesota Statutes Section 145A.04 subd. 08 and 145A.08. No person shall obstruct any official of Countryside Community Health Board in enforcing this ordinance.

In the event the Health Authority deems a nuisance situation to constitute an immediate public health hazard, the Health Authority may immediately abate or condemn the nuisance. The owner or occupant shall then make safe or secure the property or nuisance in accordance with the above provisions.

100.40 Penalty

Subd. 1. Any person violating any of the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and subject to a fine of not more than \$700 and by imprisonment for a period of not exceeding 90 days or both, together with the costs of prosecution.

Subd. 2. Each day that a prohibited act shall continue or such nuisance shall be maintained, shall constitute a separate offense.

100.50 Injunctive Relief

In the event of a violation or threat of violation of this ordinance, Countryside Community Health Board, by action of the County Attorney may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the County Attorney may institute a civil action. All costs of such action, inclusive of reasonable attorney

fees, shall be charged against the property owner or against the real estate from which the nuisance has been abated, all in accordance with Minnesota Statutes Section 145A.04, subd. 08 and 145A.08. No person shall obstruct any official of Countryside Community Health Board in enforcing this ordinance.

100.60 Separability

Every section, provision, or part of this ordinance is declared separable from every other section, provision, or part, and if any section, provision or part thereof shall be held invalid, it shall not affect any other section, provision or part.

100.70 Effective Date

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Adopted by Countryside Community Health Board on December 11, 1996.

SECTION XII - GENERAL REGULATIONS

Subdivision 1.0 Solid Waste

1. The storage, collection, and disposal of solid waste which includes, but is not limited to garbage, refuse, discarded soil materials resulting from industrial, commercial, agricultural operations, and community activities, except animal waste used as fertilizer shall conform to the solid waste disposal regulations promulgated by the Minnesota Pollution Control Agency.

Subdivision 2.0 Planned Unit Development (PUD)

1. Purpose
The purpose of this Subdivision is to provide the means of designing building complexes containing an internal relationship between building and building, and between building and site that cannot be accomplished through the standard one building - one lot application of this Ordinance. This Subdivision provides a procedure for the development of more than one structure upon a single tract or lot, as well as the integrated development of one or more lots as a single tract in the URBAN EXPANSION MANAGEMENT DISTRICT and SHORELAND MANAGEMENT DISTRICT, and the MINNESOTA RIVER MANAGEMENT DISTRICT. The Planned Unit Development (hereinafter referred to as "PUD") is intended for use only where the usual application of bulk and density controls: 1) would not provide adequate environmental protection; 2) would allow design standards detrimental to the natural aesthetic and physical characteristics of the site; 3) would not provide an efficient and feasible use of the land.
2. Administrative Procedure
 - a. An applicant for a Planned Unit Development shall follow the procedure as outlined for a Conditional Use Permit in Section XIII, Subdivision 5.0 of this Ordinance.
 - b. The applicant for a PUD shall obtain the application for the Conditional Use Permit at the Office of the Zoning Administrator and simultaneously follow the County Subdivision Ordinance to secure both preliminary and final design approval from the Planning Commission and the County Board.
3. General Regulations
 - a. All other development regulations of the appropriate Zoning District not specified in this Subdivision or specified as a condition to the Conditional Use Permit shall apply to a Planned Unit Development.
 - b. It is the intent of this Subdivision that subdivision of the land involved be carried out simultaneously with the review of a Planned Unit Development.
 - c. The application for a Conditional Use Permit shall state precisely the reasons for requesting the consideration of the property for Planned Unit Development.
 - d. The land which is to be set aside as open space or common area shall be clearly indicated on the plan. Provisions for recreational area and for continual maintenance of that area not dedicated and accepted by the County shall be required.
 - e. No conveyance of property within the Planned Unit Development shall take place

until the property is platted in conformance with the provisions of this Subdivision and applicable to the County Subdivision Ordinance. All by-laws, Property Owner's Association Articles of Incorporation, and Protective Covenants must be approved by the County Attorney and filed with the record plat.

- f. All buildings shall be used only for those purposes and the customary accessory uses of the Zoning District in which the PUD is located.
- g. There is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas in accordance with the requirement of Section XII, Subdivision 3.0 of this Ordinance.
- h. Drives, accessways, and common parking areas must be developed to a standard equal to that required for public use by Section XII, Subdivision 3.0, such drives and accessways must be protected by recorded deed covenants assuring their availability to all residents of the project.

4. Site Design

- a. The number of principal use structures which may be constructed within the Planned Unit Development shall be determined by dividing the net acreage of the project area by the required lot areas per unit which is required in the district which the Planned Unit Development is located. The net acres shall be defined as the project area less the land area dedicated for public streets. The project area includes all the land within the Planned Unit Development which is allocated for residential, commercial or industrial uses, and for common open space as required by this Subdivision. Land to be dedicated for public streets is to be excluded from the project area.
- b. The common open space, any other common properties, individual properties, and all other elements of the Planned Unit Development shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.
- c. The proposed PUD shall be of such size, composition, and arrangement that its construction, marketing and operation is feasible as a complete unit, without dependence on any subsequent unit or development.
- d. All planned unit developments shall be served by central sewer and water facilities.

5. Standards for Common or Public Open Space

An open area may not be accepted as common open space under the provisions of this Subdivision unless it meets the following standards:

- a. The location, shape, size, and character of the common open space must be suitable for the PUD.
- 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 structures to be provided.
- c. Common open space must be suitably improved for its intended use, but common open 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 plan must coordinate the improvement of the common open space and the construction of buildings, structures, and improvements in the common open space, with the construction of the permitted structures of the Zoning District in which the Planned Unit Development is located.
 - e. If the final development plan provides for buildings or structure 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. The County Board shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.
 - f. The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of the principal structures of the PUD.
6. Conveyance and Maintenance of Common Open Space
- a. All land shown on the final development plan as common open space must be conveyed under one of the following options:
 - 1. It may be conveyed to a public agency (State, County or Township) to maintain the common open space and any buildings, structures, or improvements which have been placed on it.
 - 2. 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 and the County Attorney which restrict the common open space to the uses specified on the final 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. Interest in the common open space shall be undivided and such interest shall not be transferable.
 - b. No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any permitted use are expressly reserved.
 - c. If the common open space is not conveyed to a public agency, either one of the following methods of enforcement must be provided:
 - 1. The legal right to develop the common open space for the uses not specified in the final development plan must be conveyed to a public agency.
 - 2. The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.
 - d. If the common open space is not conveyed to a public agency, the covenants

governing the use, improvement and maintenance of the common open space may authorize a public agency to enforce their provisions.

7. Required Covenants, Easements and Provisions in Plan. The development plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of permitted structures, accessory uses thereto, and public facilities as may be necessary for the welfare of Planned Unit Development and not inconsistent with the best interest of the entire County. The applicant may be required to dedicate land for street or park purposes and, by appropriate covenants, to restrict areas perpetually (or for the duration of the Planned Development) as open space for common use. The development shall be subject to all conditions so imposed, and shall be exempted from other provisions of this Ordinance only to the extent specified in the authorization.
8. Guarantee the Provision of Common Open Space.
The County Board may require adequate assurance, in a form and manner which it approves, that the common open space shown in the final development plan will be provided. The following methods of assurance are intended as illustrative, and they may be used singly or in combination:
 - a. The County Board may accept a bond, corporate surety, or other acceptable financial guarantee, in a form which complies with the provisions of the Subdivision Control Ordinance, and in an amount sufficient to purchase the common open space shown in the final development plan or alternative acreage which is equivalent in size and character.
9. Final Approval.
When the County Board gives final approval, a Certificate of Occupancy shall be issued for the Planned Unit Development even though the size of lots, depth of yards, and the required distance between grouped buildings and the building height, may not conform in all respects to the regulations of the district in which the project is to be located.
10. Final Action by Applicant.
The applicant shall then review his application and plan in its final approved form and sign a statement that the Planned Unit Development Plan in its final form shall be made binding on the applicant, any successors in interest and assigns.
11. Control of Planned Unit Development Following Acceptance.
All changes in use, or re-arrangement of lots, blocks and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be made by the County Board, under the procedures authorized for the amendment of this Ordinance. No amendments may be made in the approved final plan unless they are shown to be required changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the County.
12. Amendments to the Final Development Plan.
All changes in use, or re-arrangement of lots, block and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be approved by the Planning Commission. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the County.

13. Failure to Begin Planned Unit Development.

If no construction has begun or no use established in the Planned Unit Development within one year from the final approval of the final development plan, the final development plan shall lapse and be of no further effect.

In its discretion and for good cause, the County Board may extend for one additional year the period for the beginning of construction.

Subdivision 3.0 Parking and Loading Regulations

All parking hereafter constructed or maintained shall conform with the provisions of this Subdivision and any other ordinance or regulations of the County.

- 1. Minimum Size Regulations:
Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine (9) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.
- 2. Reduction and Use of Parking and Loading Space:
On-site parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
- 3. Computing Requirements:
In computing the number of such parking spaces required, the following rules shall govern:
 - a. Floor space shall mean the gross floor area of the specific use.
 - b. Where fractional space result, the parking spaces required shall be construed to be the nearest whole number.
 - c. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Board of County Commissioners and the County Planning Commission.
- 4. Yards:
On-site parking and loading facilities shall not be subject to the front yard, side yard, and rear yard regulations for the use district in which parking is located, except that:
 - a. In a B - BUSINESS DISTRICT, no parking or loading space shall be located within ten (10) feet of any property line that abuts a road or highway right-of-

- way, or any SHORELANDS, RURAL PRESERVATION, or URBAN EXPANSION DISTRICT.
- b. In INDUSTRY DISTRICTS, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line, or any SHORELANDS, URBAN EXPANSION, or RURAL PRESERVATION DISTRICT except for railroad loading areas.
5. Buffer Fences and Planting Screens:
On-site parking and loading areas near or abutting SHORELANDS or URBAN EXPANSION DISTRICTS shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.
 6. Access:
 - a. Parking and loading space shall have proper access from a public right-of-way.
 - b. The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard.
 - c. Vehicular access to business or industrial uses across property in any URBAN EXPANSION DISTRICT shall be prohibited.
 7. Location of Parking Facilities and Combined Facilities:
Required on-site parking, space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more building or uses in a B - BUSINESS DISTRICT and in I - INDUSTRY DISTRICT, provided that the total number of spaces shall equal the sum of the requirements for each building or use.
 8. Construction and Maintenance:
 - a. In B - BUSINESS DISTRICT and I - INDUSTRY DISTRICT, parking areas and access drives shall be covered with a dust-free, all-weather surface with proper surface drainage, as required by the County Engineer.
 - b. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.
 9. Lighting:
Lighting shall be reflected away from the public right-of-way and nearby or adjacent SHORELAND, RURAL PRESERVATION, or URBAN EXPANSION DISTRICT.
 10. Required Site Plan:
Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing on-site parking and loading space to be provided in compliance with this Ordinance.
 11. Required Number of On-Site Parking Spaces:
On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

- a. One family dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable on-site parking space is provided.
- b. Multiple dwelling or mobile home park - One and one-half (1 2) parking spaces per dwelling unit, apartment unit or mobile home berth.
- c. Churches - One (1) parking space for each four (4) seats, based on the design capacity of the main seating area.
- d. Public elementary, junior high school or similar private school - Two (2) parking spaces for each classroom; senior high school, four (4) parking spaces for each classroom plus one (1) space for each four (4) seats in assembly or exhibition hall, auditorium, theater, or sports arena.
- e. Municipal administration buildings, community center, public library, museum, art galleries, post office, and other public service buildings - One (1) parking space for each five hundred (500) square feet of floor area in the principle structure.
- f. Golf course, golf clubhouse, country club, swimming club, tennis club, public swimming pool - Twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principle structure.
- g. Professional office, medical and dental clinics and animal hospital - One (1) parking space for each five hundred (500) square feet of floor area.
- h. Office buildings - One (1) parking space for each five hundred (500) square feet of floor area.
- i. Shopping Center - Where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three (3) square feet of gross parking area for each one (1) square foot of gross floor area; separate on-site space shall be provided for loading and unloading.
- j. Automobile service station - Four (4) parking spaces, plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- k. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sale, auto repair - One (1) parking for each five hundred (500) square feet of floor area.
- l. Bowling alley - Five (5) parking spaces for each bowling lane.
- m. Drive-in restaurant - Twenty (20) parking spaces or one (1) space for each twenty (20) square feet of floor area, whichever is greater.
- n. Motel or motor hotel - One (1) parking space for each rental room or suite.
- o. Assembly or exhibition hall, auditorium, theater or sports arena - One (1) parking space for each four (4) seats, based upon design capacity.
- p. Restaurant, café, nightclub, tavern or bar - One (1) parking space for each seventy-five (75) square feet of customer floor area.
- q. Retail stores and service establishments - One (1) parking space for each one hundred (100) square feet of floor area.
- r. Research, experimental or testing stations - One (1) parking space for each

- employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is greater.
- s. Storage, wholesale, or warehouse establishments - One (1) parking space for each two (2) employees on the major shift or one (1) parking space for each two thousand (2000) square feet of floor area, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.
 - t. Manufacturing or processing plant - One (1) off-street parking space for each two (2) employees on the major shift or one (1) off-street parking space for each one thousand (1000) square feet of gross floor area within the building, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.
12. Required Loading Areas.
Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

Subdivision 4.0 Performance Standards

It is the intent of this Subdivision to provide that uses of land and buildings in ALL CLASSES OF BUSINESS AND INDUSTRY DISTRICTS shall be established and maintained with proper appearance from streets adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following.

- 1. Standards:
 - a. Landscaping and Screening
 - 1. All required yards for any structure shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any of the residence districts shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan.
 - 2. All junk yards, salvage yards, and open storage yards shall be screened with buffer planting or screen fences. Plans for such screens shall be submitted for approval by the Planning Commission.

Subdivision 5.0 Environmental Review Program

- 1. Purpose. The purpose of the Environmental Review Program Section is to provide for the preparation and review of Environmental Assessment Worksheets (EAW), Environmental Impact Statements (EIS), and other environmental documents required under Minnesota Statute 116D.04, Subdivision 2 (1974) and Minnesota Statute

116D.01 (1974) as amended to implement the Environmental Review Program in accordance with 6MCAR 3.021 to 3.047, one copy of which is on file in the office of the Zoning Administrator.

2. Review Procedures and Administration.
 - a. The Zoning Administrator shall be the person responsible for the administration of the Environmental Review Program.
 - b. The applicant for a permit for any action for which environmental documents are required by Minnesota Laws or regulations shall supply in the manner prescribed by the Zoning Administrator all unprivileged data or information reasonably requested by the County that the applicant has in his possession or to which he has reasonable access.
 - c. The Zoning Administrator shall be responsible for determining whether an action for which an EAW or EIS is required. The Zoning Administrator shall also determine those proposed actions for which an optional EAW may be required, and shall notify the Planning Commission and County Board of these proposed actions.
 - d. All EAWs and EISs shall be prepared under the supervision of the Zoning Administrator, reviewed by the Planning Commission, and reviewed and approved by the County Board.
 - e. When reviewing an EAW or EIS, the Zoning Administrator and the Planning Commission may suggest design alterations or other alternatives including no action which would lessen the environmental impact of the action. The County Board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.
 - f. After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the County Board whether or not it should require the preparation of an EIS. The County Board shall require an EIS when it finds that an action is major and has potential for significant environmental effects.
 - g. Any EAW petitioned shall require a Conditional Use permit.
3. Enforcement.
 - a. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.

Subdivision 6.0 Solar Access

1. Purpose
The purpose of this Subdivision is to promote the use of solar energy systems, defined as, "a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring or converting solar-generated energy", and to assure access to

solar energy in accordance to Minnesota Statutes 1978, Chapter 786.

2. Variance

The Board of Adjustment may consider the inability to use solar energy system a "hardship" in granting a variance.

3. a. Definition

Solar Easement - a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner or land or solar sky space for the purpose of assurance adequate exposure of a solar energy system.

b. Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easement shall be created in writing and shall be filed, duly recorded, and indexed in the office of the recorder of the County in which the easement is granted. Solar easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated therein or pursuant to the provisions of Chapter 786, Section 500.20.

c. General Requirements:

Any deed, will, or other instrument that creates a solar easement shall include, but not limited to:

1. a description of the real property subject to the solar easement and a description of the real property benefited from the solar easement;
2. a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sun light is prohibited or limited;
3. any terms or conditions under which the solar easement is granted or may be terminated;
4. any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement.

SECTION XIII - ADMINISTRATION

Subdivision 1.0 Administrative Responsibility

1.1 County Planning and Zoning Administrator

The provisions of this Ordinance shall be interpreted, administered, and enforced by the County Planning and Zoning Administrator. The County Planning and Zoning Administrator is authorized to take all actions necessary in order to administer this Ordinance, including, but not limited to, determining what materials the County will require on permit applications, as well as extending any timeframes for making decisions on permits that exist under Minn. Stat. §15.99, and any other applicable law. The County Planning and Zoning Administrator is a key figure in the administration of the Yellow Medicine County Comprehensive Plan and Ordinance. He or she has the responsibility to see that all the provisions of the Ordinance are properly and fairly enforced. He or she has no discretion to modify the provisions of this Ordinance, but must enforce the Ordinance according to its literal interpretation.

1.2 Duties

1. Become familiar with and be able to clearly explain the underlying purpose of this Ordinance.
2. Receive and review applications for Land Use Permits and issue Land Use Permits only if such a use conforms with the provisions of this Ordinance.
3. Make inspections to discover violations and check for compliance with the Ordinance. If violations are discovered, an order must be sent to the proper individual(s) that such a use must be discontinued and a description of the provisions in the Ordinance that have been violated must be given.
4. Provide information about the Ordinance upon request.
5. Advise county officials on administrative matters of the Ordinance. When necessary, provide technical assistance to the County Planning Commission, Board of Adjustment and the County Board of Commissioners on the interpretation, implementation and amendments to the Yellow Medicine County Comprehensive Plan and Ordinance.
6. Maintain the Official Ordinance Maps and a record of all procedures regarding the Ordinance.
7. Receive, file and forward all applications for appeals, variances, conditional uses, and amendments to the designated official bodies.
8. Determine if applications comply with the terms of the Ordinance.
9. Recommend appropriate fees for applications, permits, or other matters processed under this Ordinance.
10. Collect fees, as set by resolution of the County Board, for all applications, permits, or other matters covered under the provisions of this Ordinance.
11. Issue all permits required by this Ordinance, and review all permits issued for structures in the unincorporated areas of the County to ensure compliance with the regulations contained in the Ordinance.

12. Institute, with the advice and the consent of the County Attorney, in the name of the County, any appropriate legal actions or proceedings against a violator as provided for in this Ordinance.

Subdivision 2.0 County Planning Commission

2.1 Membership

The Yellow Medicine County Board of Commissioners shall appoint a County Planning Commission that will consist of no fewer than five nor more than eleven members. At least two members shall be residents of the unincorporated areas of Yellow Medicine County and no more than one voting member of the County Planning Commission shall be an officer or employee of the County. State law further provides that no voting member of the County Planning Commission shall have received any substantial portion of his or her income from business operations involving the development of land within the County for urban or urban-related purposes during the two years prior to appointment.

2.2 County Planning Commission By-Laws

The County Planning Commission's By-laws, which were in effect prior to the enactment of this Ordinance, are hereby made a part of this Ordinance.

2.3 Duties

1. Cooperate and work with the County Planning and Zoning Administrator in the preparation of a Comprehensive Plan and its recommendation to the County Board of Commissioners for adoption.
2. Cooperate and work with the County Planning and Zoning Administrator in the recommendations for plan execution (implementation) in the form of a Land Use and Related Resource Management Ordinance and other measures.
3. Cooperate and work with the County Planning and Zoning Administrator in the annual review and update of the Comprehensive Plan and Ordinance.
4. Review and recommend to the Yellow Medicine County Board of Commissioners the issuance or denial of Conditional Use Permits.
5. Conduct public hearings on any proposed amendments to the Comprehensive Plan or Ordinance and applications for Conditional Use Permits. The County Planning Commission will keep an accurate, written record of all public hearings.
6. Recommend to the County Board the approval or denial of subdivisions of land.
7. Review any comprehensive plans, official controls and any plans for public land acquisition and development sent to the County for review purposes by a unit of local government or any state or federal agency. In such cases, the Planning Commission would be required to provide the County Board with a written report.

Subdivision 3.0 Board of Adjustment

3.1 Membership

1. Shall consist of at least three but not more than seven members and be appointed by the County Board.
2. At least one member shall reside in the unincorporated area of Yellow Medicine County and at least one member shall be a member of the County Planning Commission.
3. No elected officer of the County nor any employee of the County Board of Commissioners shall serve as a member of the Board of Adjustment.
4. If the Board of Adjustment consists of only three members, an alternative member shall be appointed by the County Board. The chairperson of the Board of Adjustment shall authorize the alternate member to vote on an issue when a regular member is absent, physically incapacitated, abstains because of a possible conflict of interest, or is prohibited by law from voting on that issue.
5. At least 50% of the Board of Adjustment members shall have three year terms and at least 25% shall have two year terms.

3.2 Duties

1. Authority to order the issuance of Variances.
2. Hear and decide appeals from and review any order, requirement, decision, or determination made by the County Planning and Zoning Administrator. The Board of Adjustment shall keep an accurate, written record of all meetings.

3.3 Appeal Process

The Board of Adjustment shall hear an appeal from any order, requirement, decision, or determination of any administrative official. Any such appeal shall be taken within thirty (30) days after the persons appealing are made aware of, or have notice by any means of the order, requirement, decisions or determination of the administrative official in question. The notice of appeal shall specify grounds for the appeal. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public and decide the same within sixty (60) days after the date of filing the appeal. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. 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 the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

The notice of the appeal shall state:

1. The particular order, requirement, decision or determination from which the appeal is taken.

2. The name and address of the appellant.
3. The grounds for the appeal.
4. The relief requested by the appellant.
5. All necessary state and federal permits.

Subdivision 4.0 Land Use Permit

A Land Use Permit shall only be issued for those permitted uses identified by the respective Management District in this Ordinance. Land Use Permits shall be secured prior to:

1. The construction of a building, structure, or accessory structure; or the addition of any building, structure, or portion thereof, within the unincorporated areas of Yellow Medicine County.
2. The change of use of a building, accessory structure, or land use; within the unincorporated areas of Yellow Medicine County.
3. The placement of fill or excavation of materials within the General Flood Plain, Shoreland, or Minnesota River Management Districts.

Prior to granting a Land Use Permit, the County Planning and Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

Application forms for a Land Use Permit are available at the County Planning and Zoning Administrator's Office. Fees for such permits shall be pursuant to fee schedules as established by the County Board.

By applying for a land use permit, the person so applying understands, agrees and consents to County Planning and Zoning personnel entering onto the premises in question, in a reasonable time and in a reasonable manner, in order to conduct any inspections necessary for purposes of the issuance of the permit.

Subdivision 5.0 Conditional Use Permits

A Conditional Use Permit shall only be permitted for those conditional uses identified by the respective Management District in this Ordinance.

5.1 The process used to obtain a Conditional Use Permit is given below:

1. A person desiring a Conditional Use Permit contacts the County Planning and Zoning Administrator. The County Planning and Zoning Administrator provides that person with an application form for a Conditional Use Permit.
2. The application form for a Conditional Use Permit is filled out by the person and returned to the County Planning and Zoning Administrator, along with the appropriate

- fees, for review and comment. In regard to a subdivider who proposes to subdivide land within the Urban Expansion Management District, a preliminary and final plat and the design standards of the proposed subdivision shall accompany the application.
3. The County Planning and Zoning Administrator refers the application for a Conditional Use Permit to the County Planning Commission. The County Planning Commission schedules a public hearing and notifies the applicant, adjacent property owners and affected local units of government (eg., townships that the proposed project is located in and the municipality which is located within two miles of the proposed project) of the time, place and purpose of public hearing. Notice will also be given in the official newspaper of the County and the newspapers of municipalities located within the general vicinity of the proposed project.
 4. The Public hearing shall be opened at the time advertised in the notice. The Planning Commission asks that the following rules be observed:
 - a. The appellant will state his/her case fully and furnish the Planning Commission with pertinent information concerning the property.
 - b. Those who favor the proposed change, will be heard first, and those opposed will be heard last.
 - c. Each person making a statement will be asked to state his or her name and address.
 - d. Testimony should be as factual as possible.
 - e. The Planning Commission reserves the right to question any speaker.
 - f. All statements or questions shall be directed to the chair.
 5. Prior to recommending approval or disapproval for a Conditional Use Permit, the County Planning Commission must be sure that the proposed development and/or use meets the following:
 - a. Be expressly identified in the Ordinance.
 - b. Conform to the conditions enumerated in the Ordinance.
 - c. Not be injurious to the use and enjoyment of the uses already permitted in the area.
 - d. Not impede the normal and orderly development and improvement of the surrounding vacant property.
 - e. Have or will have adequate utilities, access roads, drainage, and other necessary facilities.
 - f. Assure that adequate measures will be taken to prevent offensive odor, fumes, dust and noise so that none of these will constitute a nuisance.
 - g. Prior to recommending approval or disapproval of a Conditional Use Permit to the County Board, the County Planning and Zoning Administrator and Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.
 6. A copy of all notices of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a Conditional Use Permit in the Minnesota River, Shoreland, and Flood Plain Management Districts shall be sent so as to be received by the Commissioner of Natural Resources at least ten (10) days prior to such hearings or meeting to consider issuance of a Conditional Use Permit. A copy of the

decision shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

5.2 Procedures for Evaluating Proposed Conditional Uses within the General Flood Plain District.

1. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish as much of the following information as is deemed necessary by the County Planning Commission for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the floodway or flood fringe.
 - a. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - b. Plan (surface view) showing elevation or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
2. One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations NR 86- 87 shall be followed in this expert evaluation. The designated engineer or expert shall:
 - a. Estimate the peak discharge of the regional flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
3. Based upon the technical evaluation of the designated engineer or expert, the County Planning Commission shall determine whether the proposed use is in the floodway or flood fringe and the Regulatory Flood Protection Elevation at the site.

5.3 Procedures for evaluating proposed conditional uses within all floodplain districts:

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the County Planning Commission for determining the suitability of the particular site for the proposed use:
 - a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of

materials, flood-proofing measures, and the relationship of the above to the location of the stream channel .

- b. Specifications for building construction and materials flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
2. Transmit one copy of the information described in Subsection (1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
3. Based upon the technical evaluation of the designated engineer or expert, the County Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
4. Flood proofing measures in accordance with Section 209 through 1406 of the 1972 edition of "Flood-Proofing Regulations" (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., a copy of which is hereby incorporated by reference and declared to be a part of this ordinance. Where definitions of terms as set forth in Section 301 of FPR conflict in meaning with the definitions of terms set forth in this Ordinance, the latter shall prevail. The applicant shall be required to submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
5. Factors upon which the decision of the County Planning Commission shall be based. In passing upon Conditional Use applications, the County Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, 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.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a water front location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency

vehicles.

- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this Ordinance.

5.4 Approval, Disapproval or Modification.

1. Based upon the testimonies at the public hearing and the possible effect the proposed use will have on the Yellow Medicine County Comprehensive Plan and the development of the area, the County Planning Commission will recommend to the County Board to either approve or disapprove the Conditional Use Permit.
2. If granted, a certified copy of a Conditional Use Permit will be filed with the County Register of Deeds.
3. A conditional use permit shall expire and be considered null and void five years after it has been issued if no construction has begun or if the use permitted by the conditional use permit has not been established.
4. Any false or misleading information provided by the applicant/proposer in the application materials or during a public hearing for a Conditional Use Permit shall be just cause for automatic revocation of any approved conditional use permit. Upon satisfactory amendments to their proposal, the applicant may reapply after 90 days of the revocation.
5. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months, except on the grounds of new evidence or substantial changes to the application.

Subdivision 6.0 Variances

A variance is the modification or variation of the zoning regulations where it is determined that, by reason of exceptional circumstances, the strict enforcement of the zoning regulations would cause undue hardship. The process an individual must use in obtaining a Variance is outlined below:

1. A person desiring a Variance contacts the County Planning and Zoning Administrator. The County Planning and Zoning Administrator provides that person with an application form for a Variance.
2. A public notice that a specific Variance will be considered at the next regular scheduled meeting of the Board of Adjustment is placed in a newspaper of general circulation in any affected township or municipality and the official newspaper of the County at least 10 days before the public hearing. The Board of Adjustment schedules a public hearing and notifies the applicant and affected local units of government (e.g., townships that the proposed project is located in and the municipality which is located within two miles of the proposed project) of the time, place, and purpose of public hearing.
3. Prior to granting a Variance, the County Planning and Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits. In regards to a proposed Variance within the Minnesota River Management District, the

- Commissioner of the Minnesota Department of Natural Resources shall be notified of the proposed variance at least ten (10) days prior to its being approved or disapproved.
4. The appellant or person who appeals the Ordinance is notified of the time and place of the public hearing. Notice of the public hearing and Variance is sent to all property owners of record 500 feet of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners. Notice must also be sent to the affected board of town supervisors and the municipal council of any municipality within two miles of the affected property.
 5. The Board shall submit by mail to the Commissioner of Natural Resources copies of applications for proposed Variances in the Flood Plain Management and Shoreland Management Districts sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
 6. No variance in the Flood Plain Management Districts 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.
 7. The public hearing shall be opened at the time advertised in the notice. The Board of Adjustment asks that the following rules be observed:
 - a. The appellant will state his/her case fully and furnish the Board of Adjustment with pertinent information concerning the property.
 - b. Those who favor the proposed change, will be heard first, and those opposed will be heard last.
 - c. Each person making a statement will be asked to state his or her name and address.
 - d. Testimony should be as factual as possible.
 - e. The Board of Adjustment reserves the right to question any speaker.
 - f. All statements or questions shall be directed to the chair.
 8. The decision to approve or disapprove the granting of a Variance may or may not be made during the public hearing, whereas, members of the Board of Adjustment will be given an opportunity to weigh the statements made. The Board of Adjustment will reach a decision no later than thirty (30) days from the date of the public hearing.
 9. Variances may be granted when it is determined that there are practical difficulties in complying with the official control. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Land Use Ordinance and when they are consistent with the Comprehensive Plan.
 10. A Variance may be granted only where the strict enforcement of County zoning controls will result in "practical difficulties". A determination that a "practical difficulty" exists is based upon the consideration of the following criteria:
 - a. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?
 - b. Is the need for a Variance due to circumstances unique to the property and not created by the property owner?
 - c. Will the Variance maintain the essential character of the locality?

- d. Does the need for a Variance involve more than economic considerations?
11. The Board of Adjustment will evaluate the facts according to the criteria set forth in this subdivision in deciding whether to approve or deny a Variance application.
 12. Where, in the opinion of the Board of Adjustment, a Variance may result in an adverse effect on the environment, the applicant may be requested by the Board of Adjustment to demonstrate the nature and extent of that effect.
 13. It is the responsibility of the applicant to present facts to the Board of Adjustment sufficient to prove that the criteria for the approval of a Variance have been satisfied.
 14. 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.
 15. In exercising its power under this subdivision, the Board of Adjustment shall take into consideration the affected town board's recommendations when making its decision.
 16. A variance shall expire and be considered null and void one year after the Board of Adjustment's final decision to grant the Variance if the use or construction for which the Variance was granted has not begun. For the purposes of this subdivision, construction shall include significant site preparation work including land clearing, excavation, and the installation of utilities necessary for the placement, assembly, or installation of facilities or equipment, the installation of footings, slab, foundation, posts, walls, or other portions of a building. One administrative extension of up to one year may be granted by the Zoning Administrator upon written request of the property owner, no less than 30 days prior to expiration of the Variance, provided there is reasonable cause found for granting the extension.
 17. 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.
 18. A certified copy of the order issued by the Board of Adjustment must be filed with the Register of Deeds. The order must include the legal description of the property involved.
 19. All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within thirty (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.
 20. Any false or misleading information provided by the applicant/proposer in the application materials or during a public hearing for a Variance shall be just cause for automatic revocation of any approved variance. Upon satisfactory amendments to their proposal, the applicant may reapply after 90 days of the revocation.
 21. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months, except on the grounds of new evidence or substantial changes to the application.

Subdivision 7.0 Fees

The fees for a land use permit, rezoning, variance, amendment, conditional use permit, or subdivision shall be established by the County Board of Commissioners. The Board may review and revise the fee schedule periodically. Any person filing a request for an amendment to this Ordinance requesting a variance or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing and is not refundable.

Subdivision 8.0 Amendments

1. Proceeding for Amendment of this Ordinance shall be initiated by:
 - a. A petition of the owner or owners of the actual property;
 - b. A recommendation of the County Planning Commission;
 - c. Or by action of the Board of County Commissioners.
3. The procedures for an Amendment shall be as follows: The County Board may amend the procedures, standards, requirements, and other provisions of this Ordinance, upon recommendation of the County Planning Commission. The County Planning Commission shall hold a public hearing on the proposed amendment prior to recommending action to the County Board.
4. Amendment in the Minnesota River, Shoreland, and Flood Plain Management Districts must first be approved by the Commissioner or the Department of Natural Resources prior to adoption.
5. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission, if there is one, for study and report and may not be acted upon by the Board until it has received the recommendation of the Planning Commission.
6. A proposed amendment may not be acted upon by the governing body until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date of an amendment proposed by the governing body has been submitted to the Planning Commission.

When amending the Ordinance, refer to Minnesota Statutes 375.51, M.S. 394.25, and M.S. 394.26 (Amendments 4/83)

Subdivision 9.0 Violations. Penalties. and Enforcement

1. Violations. Any person who violates any provision of this Ordinance, including the failure to comply with stipulations or conditions of a conditional use permit, a variance, land use permit or plat, shall be guilty of a misdemeanor. Each day that the violation continues to exist shall constitute a separate punishable offense. Any such person responsible for such violation may be charged with an offense by the Yellow Medicine County Attorney's office, which may seek all penalties allowed by law, including the costs of prosecution.

2. Who may be liable for Violations. A person in violation of this Ordinance may include the owner of the property upon which the violation takes place, the occupant of the property upon which the violation takes place, or any person who encourages, arranges, directs or performs any work that constitutes a violation of this ordinance.
3. Civil Remedies. In addition to any possible criminal penalties imposed for a violation of this ordinance, Yellow Medicine County reserves the right to enforce this ordinance through all civil legal actions and forms of relief allowed by law. This includes, but is not limited to, actions to seek or obtain civil penalties, injunctions, or any other forms of relief in order to abate or compensate for any violations, including all costs and attorneys fees incurred in connection with such civil legal action brought by the County.
4. Additional Remedies. The penalties and provisions set forth herein are in addition to and supplemental to any other provisions authorized by this ordinance or by other law, and shall not be considered to exclude any other remedies allowed by law. In addition, the use of one form of action or remedy by the County in response to a violation does not preclude the County from seeking any additional remedy or form of action for the same violation, to the extent such action is allowed by law.
5. Threatened Violations. In the event of a violation or threatened violation of any provision of this Ordinance, or of a stipulation or condition of any permit issued pursuant to this ordinance, in addition to any other remedies, the County may institute appropriate action in Court to prevent, restrain, correct, or abate such violations or threatened violations, and may recover all costs of doing so, including all attorneys fees incurred by the County.

PLEASE NOTE: The following flow-charts illustrate the procedures a person must follow in order to obtain a permitted or conditional use permit, a variance, or an amendment to the Ordinance. These procedures are described in more detail by Section XIII. It

is extremely important that an applicant first notify the County Planning and Zoning Administrator in all instances as illustrated by the flow-charts.

Procedures for a Permitted Use

Step 1 - Applicant submits application
for a Permitted Use

County Planning and Zoning
Administrator

Step 2 - Reviews contents of
application in relation to the
County's Comprehensive
Plan and Ordinance.

Step 3 - Based upon its relationship
with the Plan and
Ordinance, the application
is either approved or
disapproved and notice is
sent to:

Applicant:

Step 4 - If the application is denied,
the applicant may appeal to the
Board of Adjustment.

Procedures for a Conditional Use

Step 1

Applicant submits application
for a Conditional Use to:

County Planning and Zoning Administrator

Step 2 - Reviews contents of application
in relation to the County's
Comprehensive Plan and Ordinance.

Step 3 - Presents the application and findings
relative to the Plan and Ordinance
to:

County Planning Commission

Step 4 - Conducts a Public Hearing on the
proposed application

Step 5 - Based upon its findings the
Commission may recommend the
proposed amendment and notifies:

County Board of Commissioners

Step 6 - The Board either accepts or rejects
the recommendation made by the
Commission and notifies; County
Attorney, Planning Commission,
Register of Deeds, Applicant

Procedures for a Variance

Step 1

Applicant submits application
for a Variance to:

County Planning and Zoning Administrator

Step 2 - Reviews contents of application in
relation to the County's
Comprehensive Plan and Ordinance.

Step 3 - Presents the application and findings
relative to the Plan and Ordinance
to:

Board of Adjustment

Step 4 - Conducts a Public Hearing on the
proposed application

Step 5 - Based upon its findings, the Board of
Adjustment either approves or
disapproves the application and
notifies: Planning Commission,
County Board, Register of Deeds,
Applicant

Procedures for an Amendment

Step 1

Request for an Amendment of
the Plan and/or Ordinance
is received by:

County Planning and Zoning Administrator

Step 2 - Reviews proposed Amendment
relative to the County's
Comprehensive Plan and Ordinance.

Step 3 - Presents the Amendment to:
County Planning Commission

Step 4 - Conducts a Public Hearing on the
Proposed Amendment

Step 5 - Based upon its findings, the
Commission may recommend the
proposed Amendment and notifies:

County Board

Step 6 - The Board either accepts or rejects
the recommendation made by the
Commission and notifies: Register
of Deeds, County Attorney, County
Planning Commission

SECTION XIV - SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE

This is an ordinance authorizing and providing for sewage treatment and soil dispersal in unsewered areas of the county. It establishes:

- 1) Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized Subsurface Sewage Treatment Systems (MSTS) (collectively referred to as SSTS) in unsewered incorporated and unincorporated areas of Yellow Medicine County incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency,
- 2) Requirements for issuing permits for installation, alteration, repair or expansion of SSTS,
- 3) Requirements for all SSTS permitted under the revised Minnesota Rules, Chapters 7080 and 7081 to be operated under an approved management plan,
- 4) Standards for upgrade, repair, replacement, or abandonment of SSTS,
- 5) Penalties for failure to comply with these provisions,
- 6) Provisions for enforcement of these requirements, and
- 7) Standards which promote the health, safety, and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Zoning and Shoreland Ordinance.

Subdivision 1.0 Purpose and Authority

1.01 Purpose and Intent

- A. Purpose – The purpose of this ordinance is to establish minimum requirements for regulation of ISTS and MSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the County’s citizens by protecting its health, safety, general welfare, and natural resources.
- B. Intent – It is intended by the County that this Ordinance will promote the following:
 1. The protection of lakes, rivers and streams, wetlands, and groundwater in Yellow Medicine County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
 2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
 3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
 4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

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

1.02 Authority

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Section 145A.01 through 145A.08; Minnesota Statutes, Section 375.51; or successor statutes, and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082; or successor rules.

1.03 Effective Date

The provisions set forth in this Ordinance shall become effective on _____.

Subdivision 2.0 Definitions

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

Authorized Representative – An employee or agent of Yellow Medicine County.

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

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

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

County – Yellow Medicine County, Minnesota

County Board – Yellow Medicine County Board of Commissioners

Department - Yellow Medicine County Zoning Department

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

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

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

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

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

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

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

MPCA – Minnesota Pollution Control Agency

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

Notice of Noncompliance – A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

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

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

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

SSTS – Subsurface sewage treatment system including an ISTS, MSTs or LSTS.

State – The State of Minnesota

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

Level A: $\text{cBOD}_5 \leq 15 \text{ mg/L}$; $\text{TSS} \leq 15 \text{ mg/L}$; fecal coliforms $\leq 1,000/100 \text{ mL}$.

Level B: $\text{cBOD}_5 \leq 25 \text{ mg/L}$; $\text{TSS} \leq 30 \text{ mg/L}$; fecal coliforms $\leq 10,000/100 \text{ mL}$.

Level C: $\text{cBOD}_5 \leq 125 \text{ mg/L}$; $\text{TSS} \leq 80 \text{ mg/L}$; fecal coliforms N/A.

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

Type II System – An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

Type III System – A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

Type IV System – An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

Type V System – An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

Subdivision 3.0 General Provisions

3.01 Scope

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

3.02 Jurisdiction

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

3.03 Administration

3.031 County Administration – The County Planning and Zoning Department shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

3.032 State of Minnesota – Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a State Disposal System permit is required.

SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance.

3.033 Cities and Townships – Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

3.04 Validity

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

3.05 Liability

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

Subdivision 4.0 General Requirements

4.01 Retroactivity

4.011 All SSTS

Except as explicitly set forth in Subdivision IV, Section 4.012, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

4.012 Existing Permits

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

4.013 SSTS on Lots Created Before January 23, 1996

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

4.02 Upgrade, Repair, Replacement, and Abandonment

4.021 SSTS Capacity Expansions

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

4.022 Bedroom Additions

The owner is allowed 1 year or one construction season from the date of issuance of a bedroom addition permit to upgrade, repair, replace or abandon an existing system if the SSTS does not comply with Minnesota Rules, Chapter 7080.1500, Subp. 4.B.

4.023 Failure to Protect Groundwater

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4. B. shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 18 months of receipt of a Notice of Noncompliance.

4.024 Imminent Threat to Public Health or Safety

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.

4.025 Abandonment

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

4.03 SSTS In Floodplains

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

4.04 Class V Injection Wells

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

4.05 SSTS Practitioner Licensing

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

Exception – a property owner who wishes to construct a SSTS, which is to treat wastewater solely from their own dwelling or seasonal dwelling, from the licensing requirement if a site evaluation and a system design are obtained from appropriately licensed practitioners.

4.06 Prohibitions

4.061 Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

4.062 Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

4.063 Sewage Discharge to a Well or Boring

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

4.064 Discharge of Hazardous or Deleterious Materials

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

Subdivision 5.0 SSTS Standards

5.01 Standards Adopted by Reference

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

5.02 Amendments to the Adopted Standards

5.021 List of Adopted Standards

The top of the sewage tank may be buried deeper than four feet from final grade for new dwellings with prior approval from the local government unit.

Allow existing SSTS a fifteen (15%) percent reduction in separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics.

5.022 Determination of Hydraulic Loading Rate and SSTS Sizing

Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions"

5.023 Compliance Criteria for Existing SSTS

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

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

5.024 Holding Tanks

Holding tanks may be used for single family homes and other buildings with limited water use under the following conditions:

- 1) The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290

5.03 Variances

5.031 Variance Requests

A property owner may request a variance from the standards as specified in this ordinance pursuant to county policies and procedures.

5.032 Affected Agency

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

5.033 Board of Adjustment

The Board of Adjustment shall have the authority to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance where there are practical difficulties or particular hardship in meeting the strict letter of this Ordinance.

Variance requests to deviate from the design flow determination procedures in Minnesota Rules, Chapter 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day, or to provisions in 7080.2150, Subp. 2 and 7081.0080, Subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in 7082.1700, Subp. 4D) must be approved by MPCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

- A. Any property owner requesting relief from the strict application of the provisions in this Ordinance must complete and submit an Application for Variance to the Department on a form provided by the Department. The variance request must include, as applicable:
 1. A statement identifying the specific provision or provisions in the ordinance from which the variance is requested;
 2. A description of the hardship that prevents compliance with the rule;
 3. The alternative measures that will be taken to achieve a comparable degree of compliance with the purposes and intent of the applicable provisions;
 4. The length of time for which the variance is requested.

5. Cost considerations only if a reasonable use of the property does not exist under the term of the Ordinance; and
 6. Other relevant information requested by the Department as necessary to properly evaluate the variance request.
- B. The appropriate fee shall be paid at the time of submittal of the application to receive consideration by the Board of Adjustment.
- C. The Board of Adjustment shall make the final decision after conducting a public hearing. The variance may be granted provided that:
1. The condition causing the demonstrated hardship is unique to the property and was not caused by the actions of the applicant;
 2. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the vicinity;
 3. The property owner would have no reasonable use of the land without the variance;
 4. The granting of the variance would not allow a prohibited use; and
 5. The granting of the variance would be in accordance with Minnesota Rules, Chapters 7080, 7081, and 7082.
- D. In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Ordinance.
- E. Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or any violation of any provision of this Ordinance relating to the specific issue of the variance, shall result in immediate revocation of the variance.
- F. Any variance granted shall automatically expire if the system is not installed within one year of the grant of the variance.
- G. An appeal from any order, requirement, decision, or determination of the Board of Adjustment in accordance with its policies and procedures.

Subdivision 6.0 SSTS Permitting

6.01 Permit Required

It is unlawful for any person to construct, install, modify, replace or operate a SSTS without the appropriate permit from the Yellow Medicine County Zoning Office. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

6.02 Construction Permit

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

6.021 Activities Requiring a Construction Permit

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

6.022 Activities Not Requiring a Permit

A construction permit is not required for the rejuvenation or remediation of SSTS including, minor repairs or replacement of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function, to an existing compliant system.

6.023 Construction Permit Required to Obtain Building Permit

For any property on which a SSTS permit is required, approval and issuance of a valid SSTS Construction Permit must be obtained before a building or land use permit may be issued by the Department.

6.024 Conformance to Prevailing Requirements

Any activity involving an existing system that required a Construction Permit shall require that the entire system be brought into compliance with this Ordinance.

6.025 Permit Application Requirements

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

- a. Name, mailing address, telephone number

- b. Property identification number and address or other description of property location.
- c. Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730
- d. Design Report as described in Minnesota Rules, Chapter 7080.2430
- e. Management Plan as described in Minnesota Rules, Chapter 7082.0600.

6.026 Application Review and Response

The Department shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Department shall complete the review of the amended application. If the permit application is incomplete or does not meet the requirements of this ordinance the Department shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

6.027 Appeal

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

6.028 Permit Expiration

The Construction Permit is valid for a period of no more than one year from its date of issue. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the Department or a licensed inspection business, which is authorized by the Department and independent of the owner and the SSTS installer.

6.029 Extensions and Renewals

The Department may grant an extension of the Construction Permit if the construction has commenced prior to the original expiration date of the permit. (The permit may be extended for a period of no more than 6 months.)

6.030 Suspension or Revocation

The Department may suspend or revoke a Construction Permit issued under this section for any false statements, misrepresentations of facts on which the Construction Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Construction Permit is obtained.

6.03 Operating Permit

6.031 SSTS Requiring an Operating Permit

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

6.032 Permit Application Requirements

An application for an Operating Permit shall be made on a form provided by the Zoning Office and must include the following information:

- a. Owner name, mailing address and telephone
- b. Construction Permit reference number and date of issue
- c. Final record drawings of the treatment system
- d. Owners of holding tanks must retain a copy of a valid executed monitoring and disposal contract with a licensed maintenance business

6.04 Abandonment

6.041 Purpose

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

6.042 Abandoned Requirements

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning

following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.

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

Subdivision 7.0 Management Plans

7.01 Purpose

The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.

7.02 Management Plan Requirements

7.021 SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the construction permit application for review and approval. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

7.022 Required Contents of a Management Plan

Management plans shall include:

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

7.23 Requirements for Systems not Operated under a Management Plan

SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

Subdivision 8.0 Compliance Management

8.01 Public Education Outreach

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

8.02 Compliance Inspection Program

8.021 Department Responsibility

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

- A. SSTS compliance inspections must be performed:
 - 1) To ensure compliance with applicable requirements;
 - 2) To ensure system compliance before issuance of a permit for addition of a bedroom unless the permit application made during the period of November 1 to April 30, provided a compliance inspection is performed before the following June 1 and the applicant submits a certificate of compliance by the following September 30;
 - 3) For all new SSTS construction or replacement;
 - 4) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
- C. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, “property” does not include a residence or private building. The Department shall notify the owner of the Department’s intent to inspect the SSTS at least two days in advance of the intended inspection.

- D. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed as a separate and distinct offense.

8.022 New Construction or Replacement

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081. SSTS found not to be in compliance with 7080.1500, Subp. 4A or 7081.0080, Subp. 3 must be repaired or replaced within ten months or as directed under Minnesota Statutes, Chapter 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- B. A Certificate of Compliance for new SSTS construction or replacement, which shall be valid for five years, shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- C. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- D. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the Department finds evidence of noncompliance.

8.023 Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
 - 1) When a construction permit is required to repair, modify, or upgrade an existing system;
 - 2) Any time there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system, such as the addition of a bedroom.
 - 3) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - 1) Watertightness assessment of all treatment tanks including a leakage report.
 - 2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report;
 - 3) Sewage backup, surface seepage, or surface discharge including a hydraulic function report.
- C. The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Department if the required corrective action is not a minor repair.
- D. The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.
- E. Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance.
- F. A soil separation compliance assessment must be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must be determined either by conducting new soil borings or by prior soil separation documentation made by two independent parties. The soil borings used for system design or previous inspections are allowed to be used. If the soil separation has been determined by two independent parties, a subsequent determination is not required unless requested by the owner or owner's agent.

8.024 Transfer of Properties

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

- 1) The seller of the property must disclose in writing information about the status and location of all known ISTS on the property to the buyer on a form acceptable to the Department.

Subdivision 9.0 Enforcement

9.01 Violations

9.011 Cause to Issue a Notice of Violation

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

9.012 Notice of Violation

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

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

9.02 Prosecution

In the event of a violation or threatened violation of this Ordinance, the County may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations and the County Attorney shall have authority to commence such action. The Department and County Attorney may take such actions as may be necessary to enforce the provisions of this ordinance.

9.03 State Notification of Violation

In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

9.04 Costs and Reimbursements

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

Subdivision 10.0 Record Keeping

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

Subdivision 11.0 Annual Report

The department shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

Subdivision 12.0 Fees

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

Subdivision 13.0 Interpretation

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

Subdivision 14.0 Severability

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

Subdivision 15.0 Abrogation and Greater Restrictions

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

Subdivision 16.0 Ordinance Repealed

The Yellow Medicine County previous ordinance for the regulation of Individual Sewage Treatment Systems of the County is hereby repealed.

Subdivision 17.0 Adoption

The Yellow Medicine County Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Yellow Medicine County Board of Commissioners on the _____ day of _____, 2008

Chairperson, Yellow Medicine County Board of Commissioners

ATTEST:

Effective Date: _____

SECTION XV - ADULT USE/SEXUALLY ORIENTATED BUSINESS ORDINANCE

Subdivision 1.0 Definitions

Adult Use/Sexually Orientated Businesses B Adult uses/sexually orientated businesses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouses, sauna facilities, adult companionship establishments, adult rap/conservation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, adult viewing booth, and other premises, enterprises, establishments, 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 Aspecified sexual activities≡ or Aspecified anatomical areas≡ which are capable of being seen by members of the public.

Adult Use Accessory B A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazine sales in which there is an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Principal - A use, business, or establishment having more than ten percent (10%) of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from movie rental or magazine sales in which there is an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Body Painting Studio B A business or establishment which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when any Aspecified anatomical areas≡ of such body are wholly or partially nude.

Adult Use Bookstore B A building or portion of a building used for the barter, rental or sale of items, consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction, or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Cabaret B A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor, or if such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Companionship Establishment B A companionship establishment if such building or portion of a building is not open to the public generally is only open to one or more classes of the

public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Conversation/Rap Parlor B A Conversation/Rap Parlor if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Health/Sport Club B A health/sport club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or if such club is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Hotel/Motel B A hotel or motel if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and wherein material is presented which is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Massage Parlor, Health Club B A massage parlor or health club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Mini Motion Parlor, Health Club B A massage parlor or health club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅ for observation by patrons therein.

Adult Use Modeling Studios B An establishment whose major business is the provision, to customers, of models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in Aspecified sexual activities≅ or in the presentation, display, depiction, or description of Aspecified anatomical areas≅ while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Viewing Booth B any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to

show images to a single person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Motion Picture Arcade B Any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Motion Picture Theater B A building or portion of a building with a capacity of more than fifty (50) persons used to show images if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or where the images so displayed are distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Novelty Business B A business which has a principal activity of selling devices which stimulate human genitals or devices which are designed for sexual stimulation.

Adult Use Sauna B A sauna if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or which provides 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 the service provided by the sauna facility is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Adult Use Steam Room/Bathhouse Facility B 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 is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Aspecified sexual activities≅ or Aspecified anatomical areas≅.

Liquor License B Any of the following licenses issued or approved by the County of Yellow Medicine pursuant to Minnesota Statute, Chapter 340A:

1. On-sale Intoxicating Malt Liquor License, or
2. On-sale Intoxicating Liquor License, or
3. On-sale Wine License.

Minor B Person(s) under eighteen (18) years of age.

Police Related Service Calls B Requests for assistance made to the law enforcement agency from a neighboring resident, a victim of a crime, a patron of an Adult Use/Sexually Oriented business, or the management of an Adult Use/Sexually Orientated business. Such calls may include but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution, and trespassing.

Specified Anatomical Areas: Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered. Human Male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexual-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence.
3. Use of human or animal ejaculation or ejaculate, sodomy, oral copulation, coitus, or masturbation.
4. Fondling or touching of human genital, pubic region, buttocks, or female breast(s).
5. Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical constraint of any such persons.
6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.
7. Human erection, urination, menstruation, vaginal or anal irrigation.

Subdivision 2.0 Adult Use License Required

No person shall own or operate an adult use/sexually orientated business without first having secured an Adult Use/Sexually Orientated Business License from Yellow Medicine County.

2.1 Application

The application for an Adult Use/Sexually Orientated Business License shall be submitted on a form provided by the County and shall include:

1. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall include accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, members, and creditors furnishing credit for the establishment or the acquisition, maintenance, or furnishings of said business including the purchase of any items of personal property for use in said operation and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors.
2. An application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, date of birth of the owner, lessee, if any, the operator or manager, and all employees; the name, address and phone number of two persons, who shall be residents of the state, and who may be called upon to attest to the applicant=s, manager=s, or operator=s character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense, and if so, complete and accurate information as to the time, place, nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.
3. An application for license shall contain: a statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use/sexually orientated business of adult business by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a business entity applicant, a statement detailing any felony convictions by any owner of five percent (5%) or more of the applicant entity and whether or not any owner of five percent (5%) or more of the applicant entity has ever applied or held a license to operate a similar type of business in other community(s).
4. The activities and types of business to be conducted.
5. The hours of operation.
6. Provisions to be utilized to restrict access by minors.
7. A building plan of the premises detailing all internal operations and activities.

2.2 Responsibility to Obtain Other Permits/Licenses

The granting of any permit or license pursuant to requirements of this Ordinance, or other applicable Yellow Medicine County Ordinances, shall not relieve applicants of their responsibility to obtain any other required local, state or federal permits.

Subdivision 3.0 Adult Use/Sexually Orientated Business License Fee

1. Payment of Fees. Each application for an Adult Use/Sexually Orientated Business License shall be submitted to the Zoning Office and shall be accompanied by payment in full of the required fee for the Adult Use/Sexually Orientated Business License.
2. Expiration of Adult Use/Sexually Orientated Business License. Each license shall be issued for a period of one (1) calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than 12 months shall be counted as a full year for the purpose of calculation of fees.
3. Annual Fee. The annual fee for an Adult Use/Sexually Orientated License shall be as detailed in the fee schedule established by the Yellow Medicine County Board of Commissioners. The fee may be adjusted from time to time by Board resolution.
4. Refund of Fee. If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under this Ordinance shall be refunded.

Subdivision 4.0 Granting of Adult Use/Sexually Orientated Business License

1. The Yellow Medicine County Sheriff or his designee shall investigate all facts set out in the application. Each owner of the establishment, be it an individual, or in the case of business entity owner, any owner of five percent (5%) or more of the business entity, shall be subjected to a criminal history background check by the Sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Sheriff.

The application for the adult use/sexually orientated business license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Sheriff, and a report provided to the Zoning Office by the applicant.

The Planning Commission shall hold a public hearing within thirty (30) days after the Planning and Zoning Office receives a complete application. At the hearing opportunity shall be given to any person to be heard relating to the granting of the license. The Planning Commission shall report its findings to the County Board within thirty (30) days after the hearing. The County Board shall grant or deny said Adult Use/Sexually Orientated

Business License within thirty (30) days after receipt of the report from the Planning Commission.

2. The Adult Use/Sexually Orientated Business License shall be issued only to the applicant and shall not be transferable to another holder. The license is effective only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the County. If the licensee is a business entity, a change in the identity of any partner, shareholder, owner, or member of the entity, shall be deemed to be a transfer of the license. A license transferred without the written prior approval of Yellow Medicine County, is voided by the transfer.

Subdivision 5.0 Persons Ineligible for Adult Use/Sexually Orientated Business License

No license shall be issued to any individual or business entity:

1. Under twenty-one (21) years of age.
2. Who is overdue in payments to a city, county, state, or federal government for taxes, fees, fines, penalties or any other obligations
3. If the individual owner or any owner of five percent (5%) or more of the business entity has been convicted of a gross misdemeanor or felony, or of violating any law of this state or any local ordinance relating to sex offenses, obscenity offenses, or adult establishments.
4. Who is not the proprietor of the establishment for which the license is issued.
5. Who is acting as an agent for an individual who would be disqualified pursuant to the criteria herein.
6. Who has not paid the required investigation/licensing fees required by this Ordinance.

Subdivision 6.0 Places Ineligible for Issuance of Adult Use/Sexually Orientated Business License

1. No license shall be granted for adult use/sexually orientated business establishments on any premises where a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for a violation, until one (1) year has elapsed after such conviction or revocation.
2. No license shall be granted for any adult use/sexually orientated business establishment which is not in compliance with the County's land use regulations fire, health, and safety codes, and all other provisions of local, federal and state law.

Subdivision 7.0 Conditions of Adult Use/Sexually Orientated Business License

1. All licensed premises shall have the license posted in a conspicuous place at all times.
2. No minor shall be permitted on the premises.
3. Any law enforcement officer and any other inspection officer designated by the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
4. No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
5. In granting a license for an adult use/sexually orientated business, the County Board may impose additional conditions to protect the best interest of the surrounding area or the County as a whole, including but not limited to parking, lighting, etc.
6. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the County upon request.
7. The licensee must cover or otherwise arrange all windows, doors and apertures to prevent any person outside the licensed premise from viewing any items or merchandise inside the premises depicting Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Subdivision 8.0 Adult Use/Sexually Orientated Business Operational Restrictions

Adult Uses Principal General Provisions. Adult Use/Sexually Orientated Businesses shall be subject to the following general provisions:

1. No person(s) under eighteen (18) years of age shall be permitted in any adult use/sexually orientated business principal premises, enterprises, establishments, business or place.
2. No liquor license shall be issued to any adult use/sexually orientated business related premises, or to any enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in Aspecified sexual activities≡ or Aspecified anatomical areas≡.

3. No adult use/sexually orientated business related premises, and no enterprise, establishments, business or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in Aspecified sexual activities≡ or Aspecified anatomical areas≡ shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.
4. Activities classified as obscene are prohibited in any building which is also utilized for residential purposes.
5. Adult uses/sexually orientated business, both principal and accessory, are prohibited in any building which is also utilized for residential purposes.
6. An adult use/sexually orientated business which does not qualify as an adult use accessory pursuant to Section XIV, subdivision 14 below, shall be classified as an adult use principal.

Subdivision 9.0 Permitted Locations for Adult Use Principal

Adult use principal, shall only be allowed in the General Business District (Section VIII) and the Industry District (Section IX).

1. Access, parking, screening, lighting, and other relevant site related criteria for all Adult Uses shall be as set forth in the Yellow Medicine County Land Use and Related Resource Management Ordinance, Section XII General Regulations.
2. The main entrance of a building iwhtin which any adult use principal is located shall be at least 1000 lineal feet, as measured in a straight line from the closest point of the property line of:
 - A. Any residentially used or zoned property.
 - B. Any licensed day-care center.
 - C. Any public or private educational facility classified as an elementary, junior high, or senior high school.
 - D. Any hotel or motel.
 - E. Any public park or trails system.
 - F. Any nursing home.
 - G. Any youth establishment.

- H. Any church or church related organization.
 - I. Another adult establishment.
 - J. Establishments licensed to serve alcoholic beverages.
 - K. Hospitals/Clinics.
3. No adult use principal shall be located in the same building or upon the same property as another adult use principal.

Subdivision 10.0 Hours of Operation

Hours of operation for adult use/sexually orientated business principal, shall be from 11:00 a.m. to 1:00 a.m. A different time schedule may be approved by the County Board if it can be satisfactorily demonstrated to the Board that all of the following apply:

- 1. The use does not adversely impact or affect uses or activities within 1000 feet.
- 2. The use will not result in increased policing or related service calls.
- 3. It is critical to the operation of the business.

Subdivision 11.0 Sign Regulations

Adult use/sexually orientated business principal shall adhere to the following sign regulations in addition to those set forth in the Yellow Medicine County Land Use and Related Resource Management Ordinance, Section XX.

- 1. Sign message shall be generic in nature and shall only identify the name and type of business.
- 2. Signs shall not be pictorial.
- 3. Signs shall be limited to the size and number of signs permitted in the district in which the use is located.

Subdivision 12.0 Adult Cabaret Regulations

The following additional restrictions apply to Adult Cabarets:

1. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid Adult Use/Sexually Orientated Business License.
2. An Adult Use/Sexually Orientated Business License shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the licensee.
3. An adult cabaret is prohibited in establishments where alcoholic beverages are served.
4. No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless the performance is in compliance with requirements set forth in Paragraph #7 and Paragraph #8 below.
5. No patron or other person, excepting a dancer or live entertainer performing in compliance with Paragraph #7 and Paragraph #8 below.
6. No dancer, entertainer, or performer shall be under eighteen (18) years of age.
7. All dancing shall occur on a platform raised at least two feet (2=) above the level of the floor and intended for the purpose of dancing.
8. No dancer or performer shall perform or dance closer than ten feet (10=) from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
9. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
10. No person under eighteen (18) years of age shall be admitted to an adult cabaret.

Subdivision 13.0 Adult Viewing Booth Regulations

The following additional regulations apply to adult viewing booths:

1. Motion picture viewing booths must be without doors and the occupant must be visible at all times.
2. Only one person may be in a viewing booth at a time.
3. Walls separating booths must provide sufficient separation to prevent occupants from engaging in sexual activity.
4. Each booth must be kept clean and sanitary.

5. Minimum lighting requirements must be maintained.

Subdivision 14.0 Adult Use Accessory

- A. Section VII General Business District and Section IX Industry District, provided the accessory use conforms to the provisions of this subdivision.
- B. Limitation of space and income. Adult Use accessory shall:

1. Comprise no more than ten percent (10%) of the floor area of the establishment in which it is located or shall comprise an area no greater than 100 sq. ft. of floor area in which it is located, whichever is greater.
2. Comprise no more than twenty percent (20%) of the gross receipts of the entire business operation.

C. **Limitation of Business Purpose.** Business shall be limited to the sale and rental of merchandise.

D. **Separation of Areas.** Adult use accessory shall be restricted from, and shall prohibit sensory access to minors, by physically separating the following and similar items from areas of general public access:

1. Movie rental display areas shall be restricted from general view and shall be located within a separate room. Access to this room shall be in clear view of, and under the control of, the persons responsible for the operation of the adult use accessory.
2. Adult use magazines or publications shall not be physically accessible to minors.
3. Adult use magazines or publications shall be covered with a wrapper or other means to prevent display of any material other than the title of the publication.
4. Other adult uses not specifically cited shall comply with the intent of this Ordinance.

E. **Advertising.** There shall be no internal or external advertising or signing for adult use materials and adult use products.

SECTION XVI – RENEWABLE ENERGY

Subdivision 1.0 Wind Energy Conversion Systems (WECS)

1.1 Purpose

This ordinance is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within Yellow Medicine County not otherwise subject to siting and oversight by the State of Minnesota pursuant to Minnesota Statutes, chapter 216F, Wind Energy Conversion Systems, as amended.

1.2 Enforcement, Violations, Remedies, and Penalties

Enforcement of the Wind Energy Conversion System Ordinance shall be done in accordance with process and procedures established in the Yellow Medicine County Land Use and Related Resource Management Ordinance.

1.3 Definitions *(These definitions pertain to Subdivision 1.1 – 1.7)*

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

Commercial WECS – A WECS of equal to or greater than 100 kW in total name plate generating capacity.

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.

Feeder Line – Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high voltage transmission line.

High-voltage transmission line – A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

Meteorological Tower – For the purposes of this Wind Energy Conversion Systems Ordinance, 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 Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

Micro-WECS – Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

Non-Commercial WECS – A WECS of less than 100 kW in total name plate generating capacity.

Power Purchase Agreement – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

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

Public Conservation Lands – Land owned in fee title by State or Federal agencies and managed specifically for (grassland) conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes 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.

Rotor diameter – The diameter of the circle described by the moving rotor blades.

Substations – Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.

Total Height – The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Tower – Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower Height – The total height of the WECS exclusive of the rotor blades.

WECS – Wind Energy Conversion System – A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy.

Wind Turbine – A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

1.4 Procedures

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Yellow Medicine County Land Use and Related Resource Management Ordinance, except where noted below. An application to the County for a permit under this Section is not complete and will not be accepted by the County until a size determination is made pursuant to Minnesota Statutes, chapter 216F.011, as amended.

The application for all WECS shall include the following information:

- A. The name(s) of project applicant.
- B. The name(s) of the project owner.
- C. The legal description and address of the project.
- D. A description of the project including: Number, type, name plate 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 distances and be drawn to scale.
- F. Documentation of land ownership or legal control of the property.
- G. Evidence of a Power Purchase Agreement.
- H. The latitude and longitude of individual wind turbines.
- I. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the Proposed WECS.
- J. Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS.
- K. An Acoustical analysis, when determined by the Zoning Administrator.
- L. FAA Permit Application.
- M. Location of all known Communications Towers within 2 miles of the proposed WECS.
- N. Decommissioning Plan.
- O. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
- P. Additional information stated in Minnesota Rules, part 7836.0500 (subpart 1), as amended.

1.5 District Regulations

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

District	Non-Commercial	Commercial	Meteorological Tower
Rural Preservation #1 - #8	Permitted	Conditionally Permitted	Permitted
Urban Expansion	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted
Shoreland	Conditionally Permitted	Not Permitted	Not Permitted
General Business District	Not Permitted	Not Permitted	Not Permitted
Wild and Scenic River District	Conditionally Permitted	Not Permitted	Not Permitted
Industry	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted

*Commercial WECS shall require a variance if over 35' in height.

**In those Districts where meteorological towers are a permitted use, meteorological towers less than 200' in height shall be exempt from the variance requirement established for structures exceeding 35' in height.

***Meteorological towers are temporary structures and are not intended to be a permanent structure.

1.6 Setbacks – Wind Turbines and Meteorological Towers

All towers shall adhere to the setbacks established in the following table.

	Wind Turbine – Non-Commercial WECS	Wind Turbine – Commercial WECS	Meteorological Towers
Property Lines	1.1 times the total height	1.1 times the total height	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
(Neighboring) Dwellings*	NA (If setbacks are met)	1000 feet	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
Noise Standard	Minnesota Rule 7030	Minnesota Rule 7030	N/A
Road Rights-of-Way	The distance of the	1 times the total	The fall zone, as

	fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.	height, may be reduced for minimum maintenance roads or a road with an Average Daily Traffic Count of less than 10.	certified by a professional engineer + 10 feet or 1 times the total height.
Other Rights-of-Way (Railroads, power lines, etc.)	The lesser of 1 times the total height or the distance of the fall zone, as certified by a professional engineer + 10 feet	To be considered by the planning commission	The fall zone, as certified by a professional engineer + 10 feet or 1 times the total height.
Public conservation lands managed as grasslands	NA	600 feet	600 feet
Internal Turbine Spacing	NA	5 Rotor diameters downwind spacing 3 rotor diameters apart for crosswind spacing	
Other Structures	NA	To be considered	NA
Other Existing WECS	NA	To be considered based on: -Relative size of the existing and proposed WECS -Alignment of the WECS relative to the predominant winds -Topography -Extent of wake interference impacts on existing WECS -Property line setback of existing WECS -Other setbacks required -Waived for internal setbacks in multiple turbine projects including aggregated projects.	NA

*The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within 1000 feet of a commercial wind turbine.

Setbacks – substations, accessory facilities, and feeder lines – minimum setback standards shall be determined in the permitting process.

1.7 Requirements and Standards

A. Safety Design Standards

1. 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.
2. Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.
3. Warnings.
 - (a) For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.
 - (b) 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 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Consideration shall be given to painted aviation warning on meteorological towers of less than 200 feet.

B. Standards.

1. Total height. Non-commercial WECS shall have total height of less than 200 feet.

C. Tower configuration.

1. All wind turbines, which are a part of commercial WECS, shall be installed with a tubular, monopole type tower.
2. Meteorological towers may be guyed.
3. Color and Finish. All wind turbines and towers that are part of a commercial WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective. Exceptions may be made by the Zoning Administrator for meteorological towers, where concerns exist relative to aerial spray applicators.
4. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating

incandescent lights should be avoided. Exceptions may be made by the Zoning Administrator for meteorological towers, where concerns exist relative to aerial spray applicators.

5. Other Signage. All signage on site shall comply with Section XX of the Yellow Medicine County Land Use and Related Resource Management Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.
6. All feeder lines subject to Yellow Medicine County Authority equal to or less than 34.5 kV in capacity shall be buried. Feeder lines installed as part of a WECS shall not be considered an essential service. If not buried, must apply for a variance and shall follow Section XIII, Subdivision 6.0, also known as the Variance Procedure.
7. Waste Disposal. 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.
8. Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Yellow Medicine County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four feet below ground level within 90 days of the discontinuation of use.
9. Each Commercial WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates 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.
10. Orderly Development. 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.

D. Other Applicable Standards

1. Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.
2. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
3. Components must have a Underwriters Laboratory Listing (UL).
4. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

- E. 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 two miles of the proposed WECS location upon application to the County for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.
- F. Avoidance and Mitigation of Damages to Public Infrastructure.
 - 1. Roads. Applicants shall:
 - (a) Identify all county, city or township roads to be used for the purpose of transporting WECS, substations parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
 - 2. Drainage System. The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance.

Subdivision 2.0 Solar Energy Systems

2.1 Definitions

Solar Energy Systems – Accessory – 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 directed, connected or designed to serve the energy needs of the primary use.

Solar Farms - A solar array composed of multiple solar panels on ground mounted rack or poles, which is the primary land use for the parcel on which it is located.

2.2 Standards

Solar Farms shall be subject to the administrative requirements of Section VI, Subdivision 2.0 of this Ordinance and the following performance standards:

- A. Solar farms are the primary land use for the parcel on which the array is located and are distinguished from solar arrays that are a secondary or accessory use. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have a Direct Current (DC) rated capacity greater than 100 kilowatts.

- B. Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
- C. Other standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
- D. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Department in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
- E. Application requirements. The following information shall be provided to the Department prior to issuance of the conditional use permit:
 - 1. A site plan of existing conditions showing the following:
 - (a) Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - (b) Existing public and private roads, showing widths of the roads and any associated easements
 - (c) Location and size of any abandoned wells, sewage treatment systems and dumps
 - (d) Existing buildings and any impervious surface
 - (e) Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)
 - (f) Waterways, watercourses, lakes and public water wetlands
 - (g) Delineated wetland boundaries
 - (h) The 100-year flood elevation and Regulatory Flood Protection Elevation, if available
 - (i) Floodway, flood fringe, and /or general flood plain district boundary, if applicable
 - (j) The shoreland district boundary, if any portion of the project is located in a shoreland district.
 - (k) In the shoreland district, the ordinary high water level and the highest known water level.
 - (l) In the shoreland district, the toe and top of any bluffs within the project boundaries.
 - (m) Mapped soils according to the Yellow Medicine County Soil Survey
 - (n) Surface water drainage patterns

2. Site Plan of Proposed Conditions

- (a) Location and spacing of solar panels
 - (b) Location of access roads
 - (c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load
 - (d) New electrical equipment other than at the existing building or substations that is the connection point for the solar farm.
 - (e) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any);
3. Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
 4. The number of panels to be installed;
 5. A description of the method of connecting the array to a building or substation;
 6. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection is necessary;
 7. A decommissioning plan shall be required to ensure that facilities 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 ensuring financial resources will be available to fully decommission the site. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

2.3 Standards for Solar Energy Systems, Accessory.

Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:

- A. Height. Active solar systems are subject to the following height requirements:
 1. Building- or roof- mounted solar systems shall not exceed the maximum allowed height in any zoning district.
 2. Ground- or pole- mounted solar systems shall not exceed 15 feet in height when oriented at maximum tilt.
- B. Location within Lot. Solar systems must meet the accessory structure setback for the zoning district.

1. Roof-mounted Solar Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 2. Ground-mounted Solar Systems. Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.
- C. Maximum Coverage. Roof or building mounted solar systems, excluding building-integrated systems, shall not cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The total collector surface area of pole or ground mount systems in non-rural preservation districts shall not exceed one percent of the lot area.
- D. Approved Solar Components. Electric solar system components must have a Underwriters Laboratory (UL) listing.
- E. Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electric Code.
- F. Utility Notification. No grid-intertie photovoltaic system shall be installed until evidence has been given to the 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.

SECTION XVII - NON-CONFORMITIES

Within the districts established by this Ordinance or amendments that may later be adopted, situations may occur where as a result of the regulations contained in this Ordinance an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations contained in this Ordinance. It is the intent of this Ordinance to regulate such nonconforming situations in such a way that they can continue but will ultimately be phased out by limiting their enlargement, expansion or intensification, re-establishment after discontinuance or abandonment, or restoration after damage or destruction in order to bring uses and structures into conformity with goals, objectives, and policies of the Yellow Medicine County Comprehensive Plan. A nonconformity that is determined by the Yellow Medicine County Board of Commissioners to be detrimental to the achievement of the goals and objectives of the Comprehensive Plan may be acquired by the Board by purchase. An unlawful or illegal use of a property or structure as of the effective date of this Ordinance shall not be interpreted to be a nonconforming situation. A non conforming situation located in a Shoreland, Flood Plain, or Scenic River District may be continued subject to additional regulations specified in their respective sections in the Ordinance.

Subdivision 1.0 Nonconforming Use

- A. Any use existing on the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue, subject to the following conditions:
1. No nonconforming use shall be expanded, enlarged, or intensified except to make it a permitted use.
 2. A change from one nonconforming use to another nonconforming use is prohibited.
 3. A nonconforming use of a parcel of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except uses involving the removal of natural materials such as granite, sand, or gravel. Legal nonconforming mining operations without a valid Conditional Use Permit may be expanded within the boundaries of the parcel in which the mining use was approved and established prior to the time it became nonconforming subject to the standards contained in the Mining Regulations contained in this Ordinance.
 4. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.
 5. A nonconforming use or use of a structure that has been discontinued for a period of 12 consecutive months shall not be re-established, and any further use or occupancy of the structure shall be in conformity with the regulations of this Ordinance. Time will be calculated as

beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.

6. If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction or restoration would exceed 50 percent of its current market value, as determined by the County Assessor, then the damaged structure shall not be replaced, reconstructed or restored except in conformity with this Ordinance.

- B. The Planning Commission or Zoning Administrator may require that a Conditional Use permit be issued for any nonconforming use.

Subdivision 2.0 Nonconforming Structure

- A. Any structure existing on the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:
 1. No nonconforming structure shall be expanded, enlarged or intensified without first obtaining a variance unless each of the following conditions can be met for the district in which the structure is located:
 - a. The expansion, enlargement or intensification does not violate any other standards of this Ordinance other than the regulation(s) that made the structure nonconforming in the first place.
 - b. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 - c. The expansion, enlargement or intensification does not occur within a bluff or shore impact zone or floodway area.
 2. The replacement, reconstruction, restoration, expansion, enlargement or intensification of an existing residential dwelling which does not meet the residential dwelling setback from an existing livestock feedlot or manure storage structure may be allowed provided that any construction does not further encroach into the nonconforming setback.
 3. A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of more than 50 percent of its current market value, as determined by the County Assessor, shall not be replaced, reconstructed, restored, expanded, enlarged or intensified except in conformity with this Ordinance with the exception that homestead and nonhomestead residential real estate and seasonal real estate occupied for recreational purposes may be continued including through repair, replacement, restoration,

maintenance, or improvement but not including expansion, if a land use permit has been applied for within 180 days of when the property is damaged. The County Board may impose reasonable conditions upon the permit in order to mitigate any newly created impact on adjacent property.

4. Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
5. All construction projects for which a valid zoning permit was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

Subdivision 3.0 Nonconforming Lots

- A. Any separate lot or parcel created in accordance with the Yellow Medicine County Subdivision Regulations and of record in the Yellow Medicine County Recorder's Office on or before the effective date of this Ordinance may be used for the legal use for which it is zoned subject to the following conditions:
 1. It can be accessed by a public or a private road.
 2. There is a "buildable area" on the site.
 3. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 4. All other requirements of this Ordinance can be met.
- B. If, in the case of two or more contiguous lots or parcels of land under a single ownership, any individual lot or parcel does not meet the minimum requirements of this Ordinance, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land meeting the full requirements of this Ordinance.
- C. A conforming lot or parcel shall not be reduced in size so that it would become nonconforming in any aspect of this Ordinance.
- D. A nonconforming lot or parcel shall not be reduced in size.
- E. Where a nonconforming lot or parcel or record contains a conforming principal structure, the principal structure may be expanded, enlarged or intensified without a variance provided:
 1. The expansion, enlargement or intensification meets all other standards of this Ordinance.
 2. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 3. The expansion, enlargement or intensification does not occur within a bluff or shore impact zone or floodway area.

Subdivision 4.0 Nonconforming Signs

- A. Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance shall become a nonconforming use.
- B. Business signs on the premises of a nonconforming building or use may be maintained and continued, but such signs shall not be increased in number, area, height, or illumination.
- C. No signs erected before the passage of this Ordinance shall be rebuilt, altered, expanded, or moved to a new location without being brought into compliance with the requirements of this Ordinance.
- D. Repainting, cleaning and other normal maintenance or repair of the sign or sign structure is permitted.
- E. In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of 12 months, the structure shall be removed by the owner or lessor at the request of the Zoning Administrator.

SECTION XVIII - SUBDIVISION REGULATIONS

This section of the Yellow Medicine County Land Use Ordinance shall be known as the Yellow Medicine County Subdivision Regulations and may be referred to in this section as "this section" or "this Ordinance" or "the subdivision ordinance."

Subdivision 1.0 Intent and Purpose

The process of dividing raw land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any township. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided into lots and the streets, houses, and other structures have been constructed, the basic character of this permanent addition to the township has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. In most subdivisions, roads and streets must be maintained and various public services must be provided. The welfare of the entire township is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper standards. To the extent authorized by law, it is the purpose of these regulations to:

1. Encourage well-planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
2. Provide for the health and safety of residents by requiring properly designed streets and adequate sewage and water service.
3. Place the cost of improvements against those benefiting from their construction.
4. Secure the rights of the public with respect to public lands and waters.
5. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience, and general welfare.

There are two methods of subdividing land. One method is through the minor subdivision process; the other method is by platting the property. Subdivision 5.0 outlines the minor subdivision process. Subdivision 6.0 outlines the platting process.

Subdivision 2.0 Scope and Applicability

The regulations contained in this section shall apply in the unincorporated area of Yellow Medicine County and shall apply to any division of land into two or more parcels with the following exceptions:

1. Agricultural use lands or tracts of undeveloped land that meet the Ordinance definition of "agricultural use" and are not intended for development. All tracts of land that are determined to have the potential for or are clearly intended for development shall no longer be considered agricultural use lands for purposes of administering this Ordinance.
2. Nonbuildable tracts or lands entered into permanent easement including programs such as

Conservation Reserve Enhancement Program (CREP), designated wetlands, and land tracts located in the floodway.

3. Developed U.S. government lots or government survey tracts of 40 acres or greater.

These regulations shall apply for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, replatting, registered land survey, conveyance, sales, contract for sale, or other means by which a beneficial interest in land is transferred.

After the effective date of this Ordinance:

1. No land shall be subdivided or platted nor shall any plat or deed be recorded except as provided in this Section and approved by the County as having fulfilled the requirements of this Section, the other sections of the Yellow Medicine County Land Use Ordinance, and Minnesota Statutes Chapter 505.
2. Any parcel of land, either platted or unplatted, that has been combined for tax purposes, or for any other reason, cannot be re-separated without approval in the manner prescribed in this section.
3. No registered land survey shall be recorded with the Registrar of Titles until the registered land survey has been approved by the County as having fulfilled the requirements of this Ordinance and the Yellow Medicine County Land Use and Related Resource Management Ordinance.

Subdivision 3.0 Definitions

A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be occupied."

Alley - A public right-of-way less than 30 feet in width that normally affords a secondary means of vehicular access to abutting property.

Applicant - A person, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit, or other land use permit.

Attorney - The County Attorney.

Block - A tract of land bounded by streets or a combination of streets and public or private open space, cemeteries, railroad rights-of-way, shorelines, waterways, or city corporate limits.

Board of County Commissioners - The Yellow Medicine County Board of County Commissioners.

Boulevard - The portion of the street right-of-way between the curb line and the property

line.

Buildable Area - The space remaining on a lot for building purposes after the setback and open space requirements of this section have been met.

Buildable Land - Land with a slope less than 25 percent and outside of any required setbacks and above any floodway, drainageway, or drainage easement.

Comprehensive Plan - The policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for planned execution documented in tests, ordinance, and maps which constitute the guide for the future development of the unincorporated area of the County.

Concept Plan or Sketch Plan - A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to County and/or city officials at the pre-application meeting.

Contour Interval - The vertical height between contour lines.

Contour Map - A map on which irregularities of land surface are shown by lines connecting points of equal elevations.

Copy - A print or reproduction.

County - Yellow Medicine County, Minnesota.

Developer - The owner of land proposed to be subdivided or their representative.

Development - The act of building structures and installing site improvements.

Development Agreement - An agreement with the owner of the whole parcel as charged on the tax lists of the County specifying the number of density units allocated amongst the parcels being created, the zoning district the particular parcels are located in, and the fact that the use, development, and further conveyance of the parcels are subject to the regulations contained in the Land Use Ordinance.

Development Plan - A plan guiding the development of the property to the ultimate land use. Such plan shall include, but is not limited to: site analysis information, staging plan, grading plan, drainage plan, and end use plan.

Drainage Course - A watercourse or indenture for the drainage of surface water.

Drainageway - A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Easement -A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining walkways, roadways, and utilities including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, cable television, storm sewer or storm drainageways, and gas lines.

Engineer -The County Engineer.

Final Plat - The final map, drawing, or chart on which the subdivider's plan of subdivision is presented to the County Commissioners for approval and which, if approved, will be submitted to the County Recorder.

Grade - The average of the finished level at the center of the exterior walls of the building or the slope of a road, street, or other public way specified in percentage terms.

Individual Sewage Treatment System (ISTS) - A sewage treatment system, or part thereof, serving a dwelling or other establishment, or group thereof, and using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. Individual sewage treatment system includes holding tanks and privies.

Lot - A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. For the purposes of these regulations, a lot shall be considered to be an individual building site that shall be occupied by no more than one principal structure equipped with sanitary facilities.

Lot, Corner - A lot bordered on at least two adjacent sides by intersecting streets.

Metes and Bounds - A method of property description in which successive sides are described by means of direction and distance from an easily identifiable point.

Minimum Subdivision Design Standards - The guides, principles, and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Natural Drainageway - A depression in the earth's surface, such as ravines, draws, and hollows, that has definable beds and banks capable of conducting surface water runoff from adjacent lands.

Non-Residential Subdivision - A subdivision whose intended use is other than residential, such as commercial or industrial.

Open Space Design Development - A pattern of subdivision development that places residential dwelling units into compact groupings while providing a network of dedicated open space.

Ordinary High Water Level or Ordinary High Water Mark - The boundary of a public waters and wetlands as defined by Minnesota Statutes Section 103G, an elevation

delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

Outlot - A lot remnant or any parcel of land included in a plat which is not buildable at the time of platting. An outlot may be a large tract that could be subdivided in the future; or a lot which may be too small to comply with the minimum size requirements of zoning and subdivision ordinances; or a lot otherwise unsuitable for development and, therefore, not usable as a building site.

Owner - An individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Pedestrian Way - A public or private right-of-way across or within a block to be used by pedestrians.

Person - Includes an individual, a firm, a partnership, a corporation, a company, an unincorporated association of persons such as a club, and an owner.

Planning Commission - The Yellow Medicine County Planning Commission.

Preliminary Approval - Official action taken by a municipality or a county on an application to create a subdivision that establishes the rights and obligations set forth in Minnesota Statutes Section 462.358 and the applicable subdivision regulation. In accordance with Section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing, without limitation, the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Preliminary Plat - The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and County Board for their consideration.

Private Street - A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

Protective Covenants - Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development that would tend to impair stability of values.

Right-of-Way - The publicly owned land along a road or highway corridor a portion of which is covered by the road or highway pavement.

Seasonal High Water Table - The highest elevation in the soil where all voids are filled with water as evidenced by presence of water or soil mottling or other information.

Slope - The amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

Steep Slope - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

Street - A public right-of-way that affords primary means of access to abutting property and shall also include avenue, highway, or roadway.

Street, Collector - A street that serves or is designed to serve as a traffic way for a neighborhood or to move traffic from local roads to secondary roads.

Street, Cul-de-sac - A street turn-around with only one outlet.

Street, Intermediate or Minor Arterial - A street that 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.

Street, Local - A street intended to serve primarily as an access to abutting properties.

Street, Major or Arterial - A street that serves, or is designed to serve, heavy flows of traffic between communities and/or other heavy traffic generating areas.

Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street, Rural Design - A street without curb and gutter having either paved or gravel shoulders.

Street, Service - Marginal access street or otherwise designated as a minor street, which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

Street, Urban Design - A street that incorporates either concrete or bituminous curb and gutter.

Street Width - The shortest distance between the lines delineating the roadway including shoulders or parking lanes of a street. On urban designed streets, it is face to face of curbs.

Subdivider - Any person commencing proceedings under the Ordinance to effect a

subdivision of land hereunder for himself or for another.

Subdivision - The division or re-division of a lot, tract, or parcel of land into two or more lots for the purpose of transfer of ownership, building development, or tax assessment purposes either by plat, replat, registered land survey, conveyance, sale, contract for deed or other means or by metes and bounds description.

1. Minor Subdivision. Any subdivision three or less lots fronting on an existing street, not involving any new streets or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Comprehensive Plan, Official Map, Land Use Ordinance, or these regulations.
2. Major Subdivision. All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four or more lots or any size subdivision requiring any new street or extension of an existing street.

Subdivision Ordinance - A separate set of regulations covering subdivisions.

Survey, Land - The process of determining boundaries and areas of tracts of land. Also called property survey or boundary survey.

Surveyor - A land surveyor licensed under Minnesota state laws.

Toe of the Bluff - The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from a gentler to a steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with the average slope exceeding 18 percent.

Unincorporated Area - The area outside a city.

Vicinity Map - A map drawn to comparatively small scale that shows the area proposed to be platted in relation to known geographical features, e.g. town centers, lakes, roads.

Zoning Administrator - The duly appointed person charged with enforcement of this Ordinance.

Zoning Ordinance - A zoning ordinance or resolution controlling the use of land as adopted by Yellow Medicine County.

Subdivision 4.0 Administration

1. Pursuant to Section XIII of the Yellow Medicine County Land Use Ordinance, the Yellow Medicine County Zoning Administrator shall be the Administrator of these regulations, and shall have the powers and duties set forth in Section XIII, and all other

powers that are reasonable and necessary for the administration, interpretation, processing, processing of applications, and enforcement of this Ordinance.

2. Whenever there is a difference between the minimum standards or dimensions required in this Section and any other standards or dimensions in other sections of the Yellow Medicine County Land Use and Related Resource Management Ordinance, the most restrictive standards or dimensions shall apply.
3. Subdivision review shall be coordinated with the requirements and procedures for Environmental Assessment and Impact Statements as contained in Section XII of the Yellow Medicine County Land Use and Related Resource Management Ordinance. Any mandatory Environmental Assessment Worksheet or Impact Statement as required by the Minnesota Environmental Quality Board Regulations shall be submitted as part of the application for preliminary plat approval.
4. Subdivision review shall be coordinated with the local township. The affected township shall be informed of all phases of plat approval. The County Board shall not approve any plat of land lying in a township that has appointed a planning and zoning commission unless the township board approves the plat and the laying of streets and other public ways shown on it. The approval shall be endorsed on the plat and signed by the chair of the township board.
5. In the case of a request to divide a lot that is part of a recorded plat or metes and bounds description where the division is to permit the adding of a parcel of land to an abutting lot or to otherwise exchange property between adjacent lots and the newly created property line will not cause either lot to be in violation with this Section or the Land Use and Related Resource Management Ordinance, the division may be approved by the Zoning Administrator after submission of a survey and legal description of each by a licensed land surveyor showing the original lot and the proposed new lot lines. The newly acquired land must be combined on the same deed on any future conveyance.
6. No structure shall be built or placed on a lot in a new plat until final plat approval has occurred and until the road and drainage improvements are substantially completed. With regard to road improvements, substantially complete shall mean that the gravel base is in and has been approved by the County Engineer.
7. Any lot or parcel of land designated as an outlot shall have a development agreement recorded against this lot or parcel specifying the usage and ownership of the lot or parcel.
8. Consent for subdivision of property shall be required from the owner of the property.
9. Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property to be subdivided even in the event of foreclosure of the security interest unless the parcel is in conformance with this Section and the Yellow Medicine County Land Use and Related Resource Management Ordinance.
10. Variances to the dimensional standards contained in this Section shall be heard by the Yellow Medicine County Board of Adjustment and governed by the regulations contained in Section XIII of the Yellow Medicine County Land Use and Related Resource Management Ordinance.
11. Any bonds or other financial security required under the provisions of this section shall be approved by the County Board.
12. The County Board shall approve no plat as long as the subdivider is in default on a previously adopted plat.
13. Fees for plat reviews and other services rendered under this section shall be established

- by the Yellow Medicine County Board of County Commissioners.
14. The rules of interpretation set forth in the Yellow Medicine County Land Use and Related Resource Management Ordinance apply equally to these Subdivision regulations.

Subdivision 5.0 Minor Subdivision

1. In the case of a subdivision resulting in three or less parcels and situated in a locality where conditions are well-defined and no new roads or other public infrastructure is needed, the County may waive a portion of the platting requirements.
2. At a minimum, the following information must be submitted:
 - A. A survey showing the proposed lot.
 - B.. Topographic data at 10-foot contour intervals for undeveloped lots. Data at two-foot contours and flood plain information may be required if deemed necessary by the zoning administrator.
 - C. Buildable area on undeveloped lots.
 - D. Driveway access points.
 - E. Drainage, grading, and erosion control plans for undeveloped lots.
 - F. Wetland delineation report and map, where applicable.
3. A certificate of survey shall be prepared by a licensed land surveyor showing the boundaries of the newly created lots.
4. All wetland areas shall be protected with a drainage easement up to the 100-year flood elevation or the wetland boundary, whichever is more restrictive.
5. A maximum of three lots in a 40-acre government survey system tract is permitted utilizing the minor subdivision procedure.
6. The zoning administrator shall review all minor subdivisions for compliance with the Yellow Medicine County Land Use and Related Resource Management Ordinance.
7. In addition to other requirements, all requirements of Sections 8.0, 9.0, and 10.0 of this Section must be met where applicable. Further, the following must be completed:
 - A. Driveway permits or letter of intent must be approved by the Yellow Medicine County Highway Department or MnDOT if access to a county or state road is required.
 - B. Drainage easements must be dedicated as necessary.
 - C. Road right-of-way must be dedicated as necessary.

Subdivision 6.0 Platting Procedure

1. Concept review.
 - A. In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this section and the requirements or limitations imposed by other County regulations prior to the development of a preliminary plat, the subdivider shall meet with the zoning administrator.
 - B. The subdivider shall prepare and submit a copy of a concept plan containing the following information:

- i. Tract boundaries and approximate dimensions.
 - ii. Significant topographic and physical features on the property to be platted and within 200 feet of all property lines.
 - iii. Proposed general street and lot layout with lot sizes of individual parcels designated.
 - iv. General location of proposed public and private open space areas.
 - v. General drainage plan.
 - vi. Current zoning of the property.
 - vii. The name of the property owner and developer.
 - viii. Location of all existing utilities.
 - ix. Plan for sewage treatment and water supply.
- C. The zoning administrator shall review the sketch plan with the subdivider and provide comments on the concept plan. The zoning administrator can take no formal or informal action at this stage of review, and discussion that occurs at the meeting cannot be construed as approval or denial of the proposed plat.

2. Preliminary Plat.

- A. After receiving comments from the zoning administrator during concept review, the applicant shall prepare and submit 11 copies of the preliminary plat to the zoning administrator. The preliminary plat submission shall contain the information as described in Section 7 (Preliminary and Final Plat Requirements).
- B. Prior to preliminary plat approval for property located in a shoreland district, the proposed subdivision must have the approval of the Minnesota Department of Natural Resources (DNR). The zoning administrator shall be responsible for forwarding copies of the proposed plat to the DNR.
- C. The Watershed Management Organization in the area of the proposed platted property shall be informed of the preliminary plat.
- D. If the property proposed to be subdivided abuts the right-of-way of a state highway, a copy of the preliminary plat shall be sent to the Minnesota Department of Transportation for its review and consideration.
- E. The township in which the proposed preliminary plat is located shall be provided a copy of the preliminary plat for review and consideration.

- F. The County Attorney and County Recorder shall be provided a copy of the preliminary plat for review and consideration.
3. Public Hearing.
- A. Upon receipt of complete preliminary plat application, the Planning Commission shall schedule a public hearing on the proposed preliminary plat.
 - B. In the event the Planning Commission does not recommend approval the County Board shall conduct a public hearing and take action on the preliminary plat application
 - C. If the Planning Commission recommends approval of the preliminary plat, approval shall not constitute final acceptance of the layout.
 - D. The Planning Commission reserves the right to require changes to any subdivision plan when they feel an alternative plan would be more sensitive to environmental resources; or provide for a more efficient flow of traffic; or is not sensitive to topographical constraints of the property; or does not meet the standards contained in the Yellow Medicine County Land Use and Related Resource Management Ordinance or Comprehensive Plan.
 - E. If the Planning Commission recommends approval of the preliminary plat, the subdivider shall submit the final plat within 180 days after the approval or the approval of the preliminary plat shall be considered null and void. This 180-day time limit may be extended if requested by the applicant and approved by the Planning Commission. In the event the property is to be developed in phases, the preliminary plat approval for the undeveloped portion or phase shall be valid for two years from the date of preliminary plat approval.
 - F. Should the subdivider desire to amend the preliminary plat as approved, he may submit an amended plat that shall follow the same procedure as a new plat. A public hearing and submission of a plat review fee shall not be required for amended preliminary plats unless, in the opinion of the Planning Commission, the amendment is of such scope as to constitute a new plat. In such cases, the plat shall be refiled with payment of appropriate review fees and shall require a public hearing.
4. Final Plat.
- A. After the preliminary plat has been reviewed and approved by the Planning Commission, 11 copies of the final plat shall be submitted to the zoning administrator.
 - B. The Planning Commission's recommendations on the final plat shall be recorded in the proceedings of the Planning Commission and transmitted to the

applicant.

- C. If the Planning Commission recommends approval of the final plat, the zoning administrator shall submit the final plat to the County Board for final approval.
- D. If the final plat is not approved by the Planning Commission, the applicant can appeal that decision to the County Board who shall conduct a public hearing and take action on the plat.
- E. If the final plat is approved by the County Board, the owner shall submit the final plat to the Yellow Medicine County Recorder/Registrar of Titles within 120 calendar days after approval. The final plat shall be signed and acknowledged by each person owning a legal or equitable interest in the lands platted including contract purchasers or those holding a security interest such as a mortgage or contract for deed but excluding judgment or mechanic's lien. In lieu of their signatures on the final plat, mortgage or contract for deed vendors may sign and acknowledge a separate consent to plat.
- F. If the final plat is not presented to the County Recorder/Registrar of Titles within 120 calendar days after approval by the County Board, approval of the final plat shall be considered null and void. An extension to this 120-calendar day time frame may be requested by the applicant and submitted in writing to the County Board. An extension must be approved by the County Board.

Subdivision 7.0 Preliminary and Final Plat Requirements

The following information shall be submitted for preliminary plat review. Graphic scale for any maps shall not be more than 100 feet to one inch.

- 1. Identification and Description.
 - A. Proposed name of the subdivision. This name shall not duplicate or be alike in pronunciation of the name of any existing plat recorded in the County.
 - B. Legal description of the property.
 - C. Name and address of the record owner and any agent having control of the land; the name and address of the subdivider, land surveyor, engineer, and designer of the plan.
 - D. North point and vicinity map of area showing well-known geographical points for orientation within a one-half mile radius.
 - E. Date of preparation.
- 2. Existing Conditions.

- A. Boundary lines shall be shown clearly and to such a degree of accuracy that conforms to the plat in that no major changes are necessary in preparing the plat.
- B. Existing zoning classification for land in and abutting the subdivision.
- C. Approximate total acreage.
- D. Location, right-of-way width, and names of existing or platted streets or other public ways, parks and other public lands, significant physical features/natural resources, permanent buildings and structures, easements, and section, corporate, and school district lines within the plan and to a distance of 300 feet beyond.
- E. Location and size of existing sewers, water mains, culverts, wells, septic systems, drain tile, or other underground facilities and essential services within the preliminary plat area and to a distance of 100 feet beyond. Such data as grades and location of catch basins, manholes, hydrants, and street pavement width and type shall also be shown.
- F. Boundary lines of adjoining unsubdivided or subdivided land within 100 feet identified by name and ownership and including all contiguous land owned or controlled by the subdivider.
- G. All wetlands shall be field delineated by a qualified and experienced wetlands delineator and shown appropriately on the preliminary plat. A copy of the wetland delineation report shall be submitted. Mapping must show surveyed location of all wetland boundary markers.
- H. Topographic data including contours at vertical intervals of not more than two feet, except in those areas where the slope is less than one percent a one-foot vertical interval shall be shown. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. National Geodetic Vertical Datum 1929 Adjustment or North American Vertical Datum of 1988 shall be used for all topographic mapping, except where benchmarks are not available within one-half mile of site. Benchmarks shall be established on-site and shown on map. At the discretion of the zoning administrator, spot elevations may substitute for the one-foot contour intervals.
- I. A copy of all proposed private restrictions.
- J. In areas where public sewer is not available, two soil borings shall be completed on each lot with results being submitted to the Yellow Medicine County Zoning Administrator. If it appears that soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required at the discretion of the zoning administrator.

- K. Soil types and location of limits of each soil type as shown in the Soil Survey of Yellow Medicine County. If severe soil limitations for the intended use are noted in the Soil Survey on file in the Yellow Medicine Soil and Water Conservation District Office, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitations shall be submitted as part of the application.
 - L. For lands proposed to be platted in the Minnesota Scenic River District, the bluff line and all slopes over 12 percent with a horizontal distance of 50 feet or greater shall be delineated. In shoreland districts, all slopes over 18 percent with a horizontal distance of 50 feet or greater shall be delineated. Slopes in excess of 25 percent shall be delineated on all properties.
 - M. On all lakes, ponds, and wetlands, all water surface elevations, ordinary high water elevation, and 100-year flood elevations shall be denoted unless deemed unnecessary by the zoning administrator.
 - N. The applicant shall document the path of each drainageway from the proposed development to the first DNR Protected Water within one mile of the project.
3. Subdivision Design Features.
- A. Layout of proposed streets showing right-of-way widths.
 - B. Locations and widths of proposed pedestrian ways and utility easements.
 - C. Lot and block numbers, preliminary dimensions of lots and blocks, and area of each lot. The buildable area of each lot excluding slopes over 25 percent, required setbacks, and drainage easements shall be noted.
 - D. Proposed front, side, and rear building setbacks as well as setbacks from water bodies.
 - E. Location and size of proposed sanitary sewer lines and water mains if a publicly owned system is to be installed.
 - F. Gradients of proposed streets and sewer lines. Plans and profiles showing locations and typical cross-section of street pavement including curbs, gutters, sidewalks, drainage easements, servitude right-of-way, manholes, and catch basins.
 - G. Areas (other than streets, alleys, pedestrian ways, and utility easements) intended to be dedicated or reserved for public use including the size of such area(s) in acres.
 - H. Grading and drainage plan for entire subdivision. If any fill or excavation is

proposed in a wetland or lake, approval may be required from the Minnesota Department of Natural Resources, Army Corps of Engineers, Local Governmental Unit, and/or Watershed Management Organization.

- I. Erosion and sediment control plan.
4. Other Information.
 - A. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry so as to reveal the effect of the development of traffic, fire hazards, and congestion of population.
 - B. Source of water supply.
 - C. Provisions for sewage disposal, surface water drainage, and flood control.
 - D. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require the subdivider to submit a sketch plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use. If the plat contains either a temporary or permanent cul-de-sac, a plan showing the potential for development of adjacent property may also be required.
 - E. Provide 911 address for each lot.
 - F. Such other information as may be requested by the zoning administrator, the County Engineer, or the Planning Commission.

The following information shall be submitted for final plat review.

1. The final plat shall be prepared by a land surveyor who is licensed in the State of Minnesota and shall comply with the provisions of Minnesota Statutes and these regulations.
2. The subdivider shall submit with the final plat an Opinion of Title prepared by the subdivider's attorney or a current title insurance policy or commitment certified to within 30 calendar days of submission of the final plat to the County Board for approval.
3. On the final plat, the lowest floor elevation of a building shall be shown for all lots abutting a water body. The elevation shall be at least three feet above the 100-year flood elevation for rivers and streams and at least three feet above the ordinary high water level for lakes. A durable benchmark shall be established and shown on the map.
4. The final plat shall incorporate all changes or modifications required to conform to the approved preliminary plat.

Subdivision 8.0 General Development Standards

1. No land may be subdivided if it is unsuitable for reasons of flooding, inadequate drainage, soil and rock formations with severe limitation on development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of residents of the township or future residents of the subdivision.
2. The County reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of all natural features such as large trees, water courses, scenic points, historical spots, and similar township assets which, if preserved, will add attractiveness and stability to the proposed development of the property.
3. All new subdivisions, where appropriate, should be designed to accommodate use of passive and active solar energy systems with special attention given to street, lot, and building orientation.
4. The subdivider shall consult with the township at the time a sketch plan is under consideration to secure its recommendation as to the location of any property that should be dedicated to the public such as parks, playgrounds, or other public property.
5. The proposed subdivision shall conform to the Comprehensive Plan and Policies as adopted by the County.
6. Where a subdivision abuts or impacts an existing County road or County state aid highway, additional right-of-way may be required to be dedicated so long as the additional right-of-way is reasonably proportional to the impact of the subdivision on the health, safety, and welfare of the township.
7. Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the township as a whole may develop harmoniously.
8. No land may be subdivided unless the resulting lots and layout fully comply with the Yellow Medicine County Land Use and Related Resource Management Ordinance, unless and until a variance has been obtained as set forth in subdivision 4 of this Ordinance.

Subdivision 9.0 Minimum Design Standards

1. Street Plan.
 - A. Proposed streets shall conform to the state, County, or local road plans or preliminary plans as have been prepared, adopted, and/or filed as prescribed by law.
 - B. Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.
 - C. Access shall be given to all lots and portions of the tract in the subdivision and to adjacent unsubdivided parcels unless the topography clearly indicates that such connection is not feasible. Reserved strips and land-locked areas shall not be created.

- D. The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of the existing streets into adjoining areas.
 - E. Where adjoining areas are not subdivided but may be subdivided, the arrangement of streets in a new subdivision shall make provisions for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. Streets must be rough graded or documented that grading can be accomplished within the right-of-way.
 - F. Local streets shall be laid out to discourage their use by through traffic.
 - G. Half or partial streets will not be permitted except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, reasonable assurance for dedication of the remaining part of the street can be secured.
 - H. Whenever a tract to be subdivided adjoins an existing half or partial street, the part of the street within such tract shall be platted and dedicated if the dedication results in a reasonable subdivision design for the area.
 - I. Dead-end streets shall be prohibited except as stubs to permit future street extension into adjoining tracts or when designed as cul-de-sac streets.
 - J. Private streets or roads may be permitted provided these streets or roads meet the approval of the County Board and standards set forth in this Ordinance. No person shall sell any parcel of land in a subdivision if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the township or County.
 - K. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
2. Cul-de-sac Streets.
- A. For the purposes of this Ordinance, whether a new cul-de-sac is proposed or an existing cul-de-sac is to be extended, the beginning of the cul-de-sac road shall be measured from the point at which there is no secondary access. The end is to be measured at the center of the cul-de-sac.
 - B. Lots with frontage at the end of the cul-de-sac shall have a minimum of 60 feet of road frontage and meet the lot width requirement at the building setback line for the zoning district in which the property is located.
 - C. Temporary cul-de-sacs are those in which it can be clearly shown that the road

could reasonable continue and would result in a through road at some time in the foreseeable future. A plan showing how the road could be extended into neighboring property shall be submitted.

- D. Cul-de-sac streets, permanently designed as such, shall not exceed 1,320 feet in length.
- E. Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line, and a right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future expansion of the street into the adjoining tract. At such time as a street is extended, the acreage covered by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround. To assure streets can be constructed according to these regulations, the street shall be rough graded or typical sections shall be submitted and approved by the County Engineer to show construction can stay within the right-of-way.

3. Street Design.

- A. Minimum right-of-way width and roadway widths for each type of public street or road shall be as follows:

Type of Street	Minimum R/W Width	Minimum Driving Width	Maximum Grade	Minimum Drainage Grade
Major Arterial	120 ft	40 ft	5 percent	0.5 percent
Minor Arterial/Collector	100 ft	36 ft	5 percent	0.5 percent
Local Streets and Roads	66 ft	24 ft	8 percent	0.5 percent
Service Access Roads	50 ft	24 ft	8 percent	0.5 percent
Alleys	20 ft	16 ft	8 percent	0.5 percent
Pedestrian Way	10 ft	-	-	-

- B. Where subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the above standards.
- C. The minimum radius for a cul-de-sac shall be 45 feet.
- D. Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use. Additional width may also be necessary due to topography in order to provide adequate earth slopes.
- E. Access to streets shall be regulated as follows:

- i. Access of streets within the subdivision to other local streets shall meet all requirements of the road authority.
 - ii. Access to Minnesota Trunk Highway, U.S. routes, or Interstate Highways shall be subject to all regulations and permitting procedures of the Minnesota Department of Transportation.
 - F. Intersections having more than four streets converging at a single intersecting point shall be prohibited.
 - G. All streets shall be designed to minimum Yellow Medicine County standards and shall be reviewed and approved by the County Engineer prior to construction.
- 4. Public Utilities.
 - A. Extensions of the public water supply system, when available, shall be designed to provide public water service to each lot.
 - B. Extensions of the public sanitary sewer system, when available, shall be designed to provide public sewer service to each lot.
- 5. Easements.
 - A. Easements of at least 20 feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a 10-foot wide front or side yard easement may be required. These easements shall be dedicated on the final plat.
 - B. Drainage easements shall be provided along each side of the centerline of any watercourse or drainage channel to a sufficient width to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of drainage systems. Drainage easements shall be dedicated around wetlands up to the 100-year flood elevation or delineated boundary, whichever is greater.
 - C. Utility and drainage easements shall be dedicated for the required use and shall not be changed without the approval of the County Board which shall be by ordinance.
- 6. Street Signs.
 - A. All street signs shall be provided and installed by the County at the expense of the subdivider.
- 7. Lot Requirements.
 - A. Side lot lines shall be substantially at right angles to straight street lines of radial to curved street lines or radial to lake or stream shores unless topographic

conditions necessitate a different arrangement. Lots proposed with irregular lot lines for the sole purpose of meeting a specific zoning requirement are prohibited.

- B. Each lot shall have frontage on a private or public street or road. Access to the lot shall be from the frontage of the lot.
- C. No lot shall have less area or width than is required by zoning regulations applying to the area in which it is located.
- D. Lots designed for commercial or industrial purposes shall provide adequate off-street service, loading, and parking facilities.
- E. Corner lots shall be platted with sufficient width to permit appropriate building setbacks from both roads.
- F. Through or double frontage lots shall not be permitted except where such lots abut a state or County state aid highway or as a means to overcome specific disadvantage of topography and orientation. Such lots shall require a minimum of a 10-foot wide screen planting along the rear lot line.
- G. Lots abutting upon a watercourse, drainageway, channel, or stream shall have an additional depth or width, as required, to assure building sites that are not subject to flooding.
- H. Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian right.
- I. All remnants of lots below minimum lot size left over after subdividing a larger tract must be added to adjacent lots or a plan shown for future use rather than allowed to remain as unusable parcels. A development agreement (major subdivision) shall be recorded restricting the use and ownership of the parcel.
- J. In the case where the proposed plat is adjacent to a major or minor arterial, there shall be no direct vehicular access from individual lots to such streets and roads. Residential driveway access on collector or local streets must be a minimum of 300 feet apart and meet appropriate safety standards.
- K. No lot shall extend over a political subdivision boundary. No building shall extend over a school district line.
- L. In any area where property is likely to become urbanized, a preliminary plan may be required showing a potential and feasible way in which the lot or lots may be replatted in future years for more intensive use on the land. The placement of buildings or structures upon such lots shall allow for potential resubdivision.

- M. All lots abutting a lake, river, pond, or wetland shall contain a building site three feet or above the regulatory flood elevation, and access to both the subdivision and to the individual building sites shall be no lower than two feet above the regulatory flood protection elevation. The lowest floor elevation shall be shown on the face of the final plat, as recorded, and shall be a minimum of two feet above the 100-year flood elevation.

Subdivision 10.0 Engineering Standards

- 1. Streets.
 - A. Street surfacing shall be determined by the County Engineer.
 - B. Streets shall be graded in accordance with a plan approved by the County Engineer.
 - C. An obstacle free clear zone shall be provided adjacent to the roadway in accordance with the standards of the Minnesota Department of Transportation Road Design Manual.
 - D. For rural design roadways, the in-slopes of the ditches shall be at a 1:4 (rise over run) and back slopes of the ditch shall be at 1:3 (rise over run). The ditch bottom shall be four feet wide unless suitable erosion control can be provided.
 - E. The design of all pavement shall be accordance with all applicable specifications of the Minnesota Department of Transportation at the time of construction. The designed thickness of the pavement shall be determined by the County Engineer.

Classification	Pavement Design; Axle Load
Arterial, Collector Street	Nine ton
Local Street	Seven ton minimum

- F. To determine subgrade soil classifications, soil samples shall be collected and analyzed by a qualified testing laboratory. Reports of the soil analysis shall be submitted to the County Engineer with the pavement plans. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding 300 feet.
- G. Concrete or bituminous curb and gutter shall be constructed on both sides of urban designed streets and in areas where the road grade exceeds four percent. The construction shall be in accordance with Standard Specification for Highway Construction, MnDOT No. 2531 or 2535.

- H. All boulevards shall have four inches of top soil (black dirt) placed on them and then seeded or sodded.
 - I. All required walks shall be concrete four inches thick placed on a four-inch gravel base. Grades shall be as approved by the County Engineer. Sidewalks shall be placed in the public right-of-way. Bituminous walks or alternative paving, such as paving stones, are allowed if approved by the County Engineer. All walks shall comply with federal ADA standards.
2. Utilities.
- A. All utilities shall be placed underground unless approved by the County Engineer.
 - B. Where a larger size water main, sanitary sewer, storm drain, or similar facility is required to serve area outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefiting properties, and the assessments are to be determined by the County Board.
 - C. Sewer ó Urban Areas
 - i. No public sanitary sewer facility shall be extended which is not in conformance with the adjacent city's and County's Comprehensive Plans.
 - ii. Where trunk line sanitary sewer facilities are available, the subdivider shall install sanitary sewers and connect such sanitary sewers to such trunk line sewers. Extensions of the public sewer system shall be designed to provide public sewer service to each lot.
 - iii. In the event that such facilities are not available but, in the opinion of the adjacent city, can be made available within a reasonable period of time, such sewers and all necessary laterals extending from the main sewer to the street curb may be installed and capped for future connection as service becomes available.
 - iv. Construction and inspection of the sanitary sewer must be in conformance with the city's specifications.
 - D. Water Supply ó Urban Areas.
 - i. Where mains from a public water system are available, the subdivider shall install water mains in the plat and connect such mains to such public water system.
 - ii. Extensions of the public water supply shall, when available, be designed to provide public water service to each lot.
 - iii. Construction and inspection of the water supply system must be in conformance with city specifications.

- iv. The subdivider shall address and provide adequate fire protection.
- E. Sewer - Rural Areas.
 - i. Where lots cannot be connected with a public sewer system, provision must be made for sanitary sewer facilities consisting of an individual sewage treatment system for each lot in accordance with Section XII of the Yellow Medicine County Land Use Ordinance, (Sewage and Wastewater Treatment Regulations). This does not mean that the installation of individual disposal devices shall be at the expense of the subdivider.
 - ii. Any subdivision or lot not provided with off-site sewer facilities shall be subject to soil tests to determine whether the lot size proposed will meet minimum standards of health and sanitation due to limitation of soils as shown on existing soil maps. Such tests shall be made at the expense of the subdivider, and a preliminary plat map shall be submitted identifying the specific locations where tests were made. Sufficient soil borings shall be performed on each proposed lot by a certified soil tester to assure suitable soils exist for long-term sewage disposal.
 - iii. The lot area and topography must be such that it will accommodate an adequate disposal system to serve the residence for the estimated number of unsewered years.
- F. Water Supply - Rural Areas.
 - i. Wells shall be constructed in accordance with all rules and regulations of the Minnesota Department of Health.
- 3. Storm Water Drainage.
 - A. A drainage system shall be required and may include a storm sewer system or a system of open ditches, culverts, pipes, catch basins and ponding areas, or a combination system. Such facilities shall be installed and easements dedicated as will adequately provide for the drainage of surface waters.
 - B. Drainageway easements or land dedication may be required when such easements or land are needed in the public interest for purposes of flood plain management, proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purposes.
 - C. In connection with preliminary plat review and recommendations, provisions for surface water disposal, drainage, and flood control within the boundaries of the proposed property division shall be submitted.

- D. The rate of surface runoff within the boundaries of a proposed property subdivision shall not, in any event, be greater than the rate of runoff existing on the proposed subdivision prior to the proposed development. For the purposes of this regulation, surface water runoff is water flowing on or very near the surface. The volume of surface water runoff may be regulated if it appears the use and development of downstream properties or water resources may be unreasonably interfered with as a result of the subdivision.
- E. Provisions shall be made for controlling runoff by construction or enhancement of ponding facilities on-site and within the boundaries of the proposed property division. Such ponding facilities should provide for both permanent and temporary storage runoff.
- F. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, 10-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.
- G. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
- H. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order or preference. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for the method selected.
 - i. Natural infiltration of precipitation on-site. The purpose of this provision is to encourage the development of a storm water management plan that encourages natural infiltration. This includes providing as much natural or vegetated areas on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers, and ditches.
 - ii. Flow shall be weakened or reduced in force by use of open vegetated swales and natural depressions.
 - iii. Storm water retention facilities.
 - iv. Storm water detention facilities.

- I. Storm water detention facilities shall be designed according to the most current technology.
4. Erosion Control During Construction.
 - A. Erosion control shall be performed in accordance with the recommended practices of the Yellow Medicine Soil and Water Conservation District, the applicable Watershed Management Organization, and the Minnesota Pollution Control Agency.
 - B. The following criteria apply only to construction activities that result in runoff leaving the site:
 - i. Channelized runoff from adjacent area passing through the site shall be diverted around disturbed areas, if practical. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 - ii. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. The limits of grading must be shown on the erosion control plan.
 - iii. All disturbed ground shall be stabilized by seeding or sodding or by mulching, covering, or other equivalent control measure where necessary.
 - iv. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and Water Conservation District and the Natural Resources Conservation Service.
 - v. Fill or excavated material must not be placed in a manner that creates a slope that is not firm or firmly fixed and must not create finished slopes of 2 to 1 or steeper unless approved by the County Engineer.

Subdivision 11.0 Required Improvements

1. No improvement within a subdivision shall take place until final plat approval has been granted by the County, a development agreement (major subdivision) has been signed outlining what work can be done, and a financial guarantee has been posted with the township and the County in accordance with this section.
2. Prior to the approval of a plat, the subdivider shall have agreed, in the manner set forth below, to install in conformity with approved construction plans and in conformity with all applicable standards and ordinances the following improvements on the site:
 - A. All subdivision boundary corners, block and lot corners, and road intersection

corners. Points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All federal, state, County, or official benchmarks, monuments, or triangulation stations adjacent to the property shall be preserved in precise precision unless a relocation is approved by the controlling agency. These monuments shall be set prior to any improvements being constructed on individual lots. All lot corner pipes or irons shall be a minimum of one-half inch in diameter and 14 inches in length and shall be inscribed with the license number of the land surveyor making the survey.

- B. The full width of the right-of-way of each street dedicated in the plat shall be graded in accordance with approved plans.
 - C. The road authority may require curb and gutter along both sides of an urban designed street. Concrete curb and gutter is recommended; however, bituminous curbing may be permitted if approved by the road authority.
 - D. Sidewalks may be required along streets in residential or commercial/industrial districts.
 - E. In the case where mains from a public water system are available, the subdivider shall be required to install water mains in the plat and connect the same to such public water system.
 - F. In all cases where trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers in the plat and connect the same to the trunk line sewers.
 - G. Drainage facilities and easements shall be installed and adequately provide for the drainage of surface waters in accordance with the approved plan.
 - H. Tree planting, street signs, traffic control signs, oversized utility trunk lines, pedestrian ways, and other improvements may be required.
3. Construction plans, estimates, and proposals for the required improvements shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota. Construction plans shall contain an engineer's certificate. These plans, together with the quantities of construction items, shall be submitted to the County Engineer for approval. Upon approval, the plans shall become a part of the required contract described in 11.6 below. The tracings of the plans approved by the County Engineer plus two prints shall be furnished to the township to be filed as a public record.
4. Required improvements are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would, by general policy, be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the township/County.

5. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvements, representing the benefit to such lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for such portion of the whole cost of said improvements as will represent the benefit to the property within the subdivision.
6. Prior to the installation of any required improvements, the subdivider may be required to enter into a contract, in writing, with the County requiring the subdivider to furnish and construct the improvements at the subdivider's expense in accordance with plans, specifications, and usual contract conditions. Included in the contract will be:
 - A. Provisions for supervision of details of construction by the township and County and granting the township and County authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any work being done or contracted by the township in the vicinity.
 - B. A requirement for the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond as described in Subdivision 12.
7. No subdivider shall be permitted to start work on any other subdivision without special approval of the County if there is documented history of default on previous work or commitments.
8. All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the County Engineer at the subdivider's expense. Acceptance by the County shall be subject to the County Engineer's certificate of compliance with the contract.

Subdivision 12.0 Financial Guarantee

The financial guarantee required as part of the subdivision agreement shall be one of the following:

1. A Cash Escrow Deposit may be made with the County Treasurer in a sum equal to 125 percent of the total cost, as approved by the County Engineer, of the improvements. Total cost shall include street construction, site drainage, public water and sewer construction, and minor essential services to be furnished and installed by the subdivider pursuant to the development agreement (major subdivision). The total cost shall also include costs of inspection. The County or township shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the County for completion of the work in case of default by the subdivider or for any damages sustained on account of any breach thereof.
2. The subdivider may furnish a performance bond and payment bond with corporate surety

in a penal sum equal to 125 percent of the total cost, as approved by the County Engineer, of the improvements. Total cost shall include street construction, site drainage, public water and sewer construction, and minor essential services to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total cost shall also include inspection by the County Engineer. The bond shall be approved as to form by both the township and County Attorney and filed with the township.

3. The subdivider may deposit an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the County. Such letter of credit shall certify the following:
 - A. That the creditor does guarantee funds in an amount equal to 125 percent of the total cost, as approved by the County Engineer, for completing all required improvements. Total cost shall include street construction, site drainage, public sewer and water construction, and minor essential services installed by the subdivider pursuant to the development agreement.
 - B. That in the case of failure on the part of the subdivider to complete the specified improvements within the required time period, the creditor shall pay to the township immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter.
 - C. That this letter of credit may not be withdrawn or reduced in amount until released by the township.
4. In the event the County elects to become a party to the development agreement (major subdivision), any financial guarantee shall run to the benefit of the township and County.

Subdivision 13.0 Release or Reduction of Financial Guarantee

The County Board will not accept dedication of required improvements, nor release, nor reduce a performance bond, letter of credit, or cash escrow until an improvement has been satisfactorily completed. The County Board may require a statement from the County Engineer stating that a required improvement is satisfactorily completed. Upon receipt of a statement, the County Board may accept the improvement for dedication in accordance with the established procedure. A performance bond may be reduced upon actual dedication of a public improvement, but in no event shall a performance bond be reduced below 25 percent of the principal amount.

Subdivision 14.0 Separability

It is hereby declared to be the intent that the several provisions of this regulation are separable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provision of this regulation to be invalid, such judgment shall not affect any other provisions of this regulation not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

Subdivision 15.0 Effective Date

The regulations contained in this section shall be come effective from and after their publication according to law.

Canby, Minnesota

Airport Zoning Ordinance

Canby Municipal Airport

Table of Contents

	Page
Introduction.....	1
Section I: Purpose And Authority.....	2
Section II: Short Title.....	2
Section III: Definitions	2
Section IV: Airspace Obstruction Zoning.....	5
A. Airspace Zones.....	5
1. Primary Zone:	5
2. Horizontal Zone:	6
3. Conical Zone:.....	6
4. Approach Zone:	6
5. Precision Instrument Approach Zone:	6
6. Transitional Zone:.....	6
B. Height Restrictions:	6
C. Boundary Limitations:	7
Section V: Land Use Safety Zoning	7
A. Safety Zone Boundaries:.....	7
1. Safety Zone A:	7
3. Safety Zone C:	7
4. Exceptions - Established Residential Neighborhoods:	8
5. Exceptions - Isolated Low Density Residential Building Lots and Low Density Residential Structures:	8
B. Use Restrictions	8
1. General:.....	8
2. Zone A:	8
3. Zone B:.....	9
4. Zone C:.....	9
5. Exemptions - Established Residential Neighborhoods:.....	10
C. Boundary Limitations:	11
Section VI: Airport Zoning Map.....	11
Section VII: Nonconforming Uses.....	12
Section VIII: Permits	12
A. Future Uses:	12

B. Existing Uses:12

C. Nonconforming Uses Abandoned or Destroyed:13

Section IX: Variances13

Section X: Hazard Marking and Lighting.....14

 A. Nonconforming Uses:14

 B. Permits and Variances:14

Section XI: Airport Zoning Administrator14

Section XII: Board of Adjustment14

 A. Establishment:.....14

 B. Powers:.....14

 C. Procedures.....15

Section XIII: Appeals15

Section XIV: Judicial Review.....16

Section XV: Penalties16

Section XVI: Conflicts.....17

Section XVII: Severability.....17

Section XVIII: Effective Date.....17

Exhibits

Exhibit A..... Ex A 1

Canby Municipal Airport

Zoning Ordinance

Created By The

Canby Municipal Airport Joint Airport Zoning Board

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE CANBY MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE Canby Municipal Airport ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE CANBY MUNICIPAL AIRPORT JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

Section I: Purpose And Authority

The Canby Municipal Airport Joint Airport Zoning Board, created and established by joint action of the Common Council of the City of Canby, the Board of County Commissioners of Yellow Medicine County and the Town Board of Hammer Township pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Canby Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Canby Municipal Airport and the public investment therein.
- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Canby Municipal Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- E. The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.

Section II: Short Title

This Ordinance shall be known as “Canby Municipal Airport Zoning Ordinance”. Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

Section III: Definitions

As used in this Ordinance, unless the context otherwise requires:

“AIRPORT” means the Canby Municipal Airport located in Section 34, Township 114 North, Range 45 West of the 5th P.M..

“AIRPORT ELEVATION” means the established elevation of the highest point on the usable landing area which elevation is established to be 1193.20 feet above mean sea level.

“AIRPORT HAZARD” means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

“COMMISSIONER” means the Commissioner of the Minnesota Department of Transportation.

“DWELLING” means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

“ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT-UP URBAN AREA” (ERN-BUUA) means an area, which, if it existed on or before January 1, 1978 (for low density structures and lots) and an area which, if it existed on or before July 2, 1979 (all other land uses), shall be considered a conforming use that shall not be prohibited except as provided below in V B 5 EXEMPTIONS - ESTABLISHED RESIDENTIAL NEIGHBORHOODS. The following criteria shall be applied and considered in determining what constitutes an ERN-BUUA:

1. Location of the airport;
2. Nature of the terrain within Safety Zones A and B;
3. Existing land uses and character of the neighborhood around the airport;
4. Population of the community;
5. That the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;
6. Population density near the airport compared with population density in other areas of the community;
7. The age and the economic, political and social stability of the neighborhood and the community as a whole;
8. The proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;
9. Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;
10. Whether or not the factor listed in subparagraphs (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;
11. Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and
12. Other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban, and built-up.

“HEIGHT” for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

“LANDING AREA” means the area of the airport used for the landing, taking off or taxiing of aircraft.

“LOW DENSITY RESIDENTIAL STRUCTURE” means a single-family or two-family home.

“LOW DENSITY RESIDENTIAL LOT” means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

“NONCONFORMING USE” means any preexisting structure, tree, natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment hereto.

“NONPRECISION INSTRUMENT RUNWAY” means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

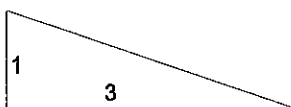
“PERSON” means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

“PLANNED”, as used in this Ordinance, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Mn/DOT, Office of Aeronautics, and the City of Canby (municipality owning airport).

“PRECISION INSTRUMENT RUNWAY” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

“RUNWAY” means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

“SLOPE” means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



slope = 3:1 = 3 feet horizontal to 1 foot vertical

“STRUCTURE” means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

“TRAVERSE WAYS” for the purposes of determining height limits as set forth in this Ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

“TREE” means any object of natural growth.

“UTILITY RUNWAY” means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

“VISUAL RUNWAY” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

“WATER SURFACES”, for the purpose of this Ordinance, shall have the same meaning as land for the establishment of protected zones.

Section IV: Airspace Obstruction Zoning

A. Airspace Zones

In order to carry out the purposes of this Ordinance, as set forth above, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

1. Primary Zone:

All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:

- a. extending 200 feet beyond each end of planned hard surface runway 12-30 .
- b. extending 100 feet beyond each end of non-hard surfaced runway 1-19.

The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

- c. 500 feet for planned hard surface runway 12-30.
- d. 250 feet for non-hard surfaced runway 1-19.

2. Horizontal Zone:

All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1343.20 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

- a. 6000 feet for planned hard surface runway 12-30.
- b. 6000 feet for non-hard surfaced runway 1-19.

3. Conical Zone:

All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

4. Approach Zone:

All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

- a. 40:1 for planned hard surface runway 12-30.
- b. 20:1 for non-hard surfaced runway 1-19.

The approach surface expands uniformly to a width of:

- c. 3,500 feet for planned hard surface runway 12-30 at a distance of 10,000 feet to the periphery of the conical surface.
- d. 2,250 feet for non-hard surface runway 1-19.

5. Transitional Zone:

All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

B. Height Restrictions:

Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in Subsection IV A so as to project above any of the imaginary airspace surfaces described in said Subsection IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

C. Boundary Limitations:

The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one and one half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

Section V: Land Use Safety Zoning

A. Safety Zone Boundaries:

In order to carry out the purpose of this Ordinance, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Canby Municipal Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

1. Safety Zone A:

All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:

- a. 3100 feet for runway planned hard surface runway 12-30.
- b. 953 feet for non-hard surfaced runway 1-19.

2. Safety Zone B:

All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:

- a. 1550 feet for runway planned hard surface runway 12-30.
- b. 476 feet for the non-hard surfaced runway 1-19.

3. Safety Zone C:

All that land which is enclosed within the perimeter of the horizontal zone, as defined in Subsection IV A hereof, and which is not included in Zone A or Zone B.

4. Exceptions - Established Residential Neighborhoods:

The following described lands are designated as Established Residential Neighborhoods in Built-Up Urban Areas, based upon the state of development of the areas on July 2, 1979. Land uses which were in existence in these areas on July 2, 1979 are exempt from the Use Restrictions of Sections V B 2 and 3 below, and are subject to the provisions of V B 5 below.

NONE

5. Exceptions - Isolated Low Density Residential Building Lots and Low Density Residential Structures:

The following properties in the aforesaid Established Residential Neighborhoods are hereby designated as either isolated, low-density residential building lots or low-density residential structures. A low-density residential structure shall mean a single-family or two-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residence. The low-density uses which were in existence on January 1, 1978 are subject to special provisions set forth in Section V B 5, **Exemptions** below:

NONE

B. Use Restrictions

1. General:

Subject at all times to the height restrictions set forth in Subsection IV B, no use shall be made of any land in any of the safety zones defined in Subsection V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. Zone A:

Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1 areas designated as Zone A

shall contain no buildings, temporary structures, exposed transmission lines, or other similar aboveground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and automobile parking.

3. Zone B:

Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:

- a. Each use shall be on a site whose area shall not be less than three acres.
- b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
- c. Each site shall have no more than one building plot upon which any number of structures may be erected.
- d. A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (Sq. Ft.)	Max. Site Population (15 persons/A)
3	4	12:1 12:1	10,900	45
4	6	10:1 10:1	17,400	60
6	10	8:1 8:1	32,700	90
10	20	6:1 6:1	72,600	150
20	and up	4:1	218,000	300

- e. The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

4. Zone C:

Zone C is subject only to height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1.

5. Exemptions - Established Residential Neighborhoods:

- a. Land uses which existed as of July 2, 1979 in the Established Residential Neighborhoods set forth in Section V A 4 above, and as shown on the zoning map, are subject to the height restrictions of Section IV B and the general restrictions of Section V B 1. Land uses which come into existence after July 2, 1979 are treated as though they were not in a designated Established Residential Neighborhood and are subject to the Zone A or Zone B restrictions as the case may be.
- b. Land uses in Established Residential Neighborhoods, which violate any of the following restrictions are prohibited as safety hazards and must be acquired, altered, or removed at public expense. Those conditions are as follows:
 - (1) The following land uses if they exist in Safety Zones A and B and in an ERN-BUUA are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances;
 - (a) Any structure which a person or persons customarily use as a principal residence and which is located entirely inside Safety Zone A within 1,000 feet of the end of the primary zone;
 - (b) Any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zones A and B and which penetrates an imaginary approach surface as defined by Section IV A;
 - (c) Any land use in Safety Zone A or B which violates any of the following standards;
 - (i) The land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;
 - (ii) The land use must not make it difficult for pilots to distinguish between airport lights and other lights;
 - (iii) The land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

- (d) Any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subparagraphs b.(1)(a), (b) or (c) above. An “isolated” residential building lot is one located in the area in which the predominant land use is single-family or two-family residential structures; and
- (e) Any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:
 - (i) Possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;
 - (ii) Possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;
 - (iii) Tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;
 - (iv) Effect of the land use on availability of clear areas for emergency landings; and
 - (v) Flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

C. Boundary Limitations:

The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

Section VI: Airport Zoning Map

The several zones herein established are shown on the Canby Municipal Airport Zoning Map consisting of 3 sheets, prepared by SEH, and dated December 10, 2004, attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this Ordinance.

Section VII: Nonconforming Uses

Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within two years thereof.

Section VIII: Permits

A. Future Uses:

Except as specifically provided in paragraph 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1. However, a permit for a tree or structure less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this Ordinance as set forth in Section IV and the land use limitations set forth in Section V.

B. Existing Uses:

Before any existing use or structure may be replaced, substantially altered or impaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. Nonconforming Uses Abandoned or Destroyed:

Whenever the zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the zoning administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight per cent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

Section IX: Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6a. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance, provided any variance so allowed may be subject to any reasonable conditions that the Board or Commissioner may deem necessary to effectuate the purpose of this Ordinance.

Section X: Hazard Marking and Lighting

A. Nonconforming Uses:

The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Canby (airport owner).

B. Permits and Variances:

Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning administrator or Board, shall require the owner of the structure or tree in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

Section XI: Airport Zoning Administrator

It shall be the duty of the Canby Zoning Administrator (an appropriate local zoning official) to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Canby Zoning Administrator upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by him in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the Canby Zoning Administrator for action by the Board hereinafter provided for.

Section XII: Board of Adjustment

A. Establishment:

The Canby Municipal Airport Joint Zoning Board shall serve as the Board of Adjustment for the Canby Municipal Airport Zoning Ordinance.

B. Powers:

The Board of Adjustment shall have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.

1. To hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass.
2. To hear and decide specific variances.

C. Procedures

3. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.
4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.
5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

Section XIII: Appeals

- A. Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this ordinance as it concerns such governing body or board.
- B. All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a

variance by certified mail to the members of the Board of Adjustment in the manner set forth in Minnesota Statute 360.068, Subdivision 2.

- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- E. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

Section XIV: Judicial Review

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Yellow Medicine County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to petition a court as provided by this section.

Section XV: Penalties

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine or not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper under the laws of Minnesota Statute 360.073 and other applicable law.

Section XVI: Conflicts

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

Section XVII: Severability

- A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.
- B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

Section XVIII: Revision to Prior Ordinance

This Ordinance revises and supercedes Canby Municipal Airport Zoning Ordinance adopted 10 October, 1975.

Section XIX: Effective Date

This Ordinance shall take effect on the ____ day of _____, 2005. Copies thereof shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota, and the County Recorder, Yellow Medicine County, Minnesota.

Passed and adopted after public hearing by the Canby Municipal Airport Joint Airport Zoning Board this ____ day of _____, 2005.

Chairman

Member

Member

Member

Member

Member

Member

Exhibit A

Canby Municipal Airport

Zoning Ordinance

This Ordinance affects all or a portion of the following sections of land:

Name and Number of Township	AIRSPACE OBSTRUCTION ZONING: Section IV of Ordinance; Pages 2 of Zoning Map	LAND USE SAFETY ZONING: Section V of Ordinance; Pages 3 of Zoning Map
Hammer Township T 115 N R 45 W	Sections: 20 through 29 32 through 36	Sections: 21, 22, 25, 26 through 28 33 through 36
Norman Township T 114 N R 45 W	Sections: 1 through 5 9 through 12	Sections: 2 through 4

SECTION XX - SIGNS

Subdivision 1.0 Purpose

The purpose of this section is to protect the natural scenic beauty of roadsides in Yellow Medicine County.

The regulations contained herein do not apply to signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.

Subdivision 2.0 General Standards:

1. All signs erected, altered, substantially repaired, relocated, or maintained following the effective date of this Ordinance shall conform to the regulations in this Ordinance.
2. No sign may be erected that, by reason of position, shape, movement, color, or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard; nor shall signs be permitted which would otherwise interfere with traffic control.
3. All signs, other than public utility warning signs, are prohibited within the public right-of-way of any major highway, County road, or other County property.
4. Political signs are allowed in any district on private property with the consent of the owner of the property. Such signs must be removed within 10 days following the date of the election or elections to which they apply.
5. Illuminated signs shall be diffused or indirect so as not to direct rays of lighting onto any major highway or County road. No illuminated signs or their support structure shall be located closer than 150 feet from the centerline of a major highway or County roadway surface.
6. Flashing signs shall be prohibited. Signs giving off direct light that may be confused with traffic, aviation, or emergency signaling are also prohibited.
7. Real estate sales signs may be placed in any yard providing such signs are not closer than 10 feet to any property line.
8. Real estate development project sales signs may be erected for the purpose of selling or promoting a single-family or multiple-family residential project. The plat of the development must be recorded with the Yellow Medicine County Recorder prior to the erection of a sign. Signs are subject to the following standards:
 - a. Such signs shall not exceed 32 square feet in area.
 - b. Only one such sign shall be erected.
 - c. Such signs shall be removed when the project is completed, sold, or leased.
 - d. Such sign must be located on the property that is for sale. Off-site development project signs are prohibited.
9. One construction/development identification sign shall be allowed for each development project. The sign shall not exceed 32 square feet in area. The sign shall not exceed eight feet in height.
10. Signs shall not be painted directly on the outside wall of a building. Signs shall not

- be painted on a fence, tree, stone, or other similar objects in any district.
11. Roof signs are prohibited unless a licensed engineer certifies that the roof structure is designed to carry the weight of the sign structure.
 12. All signs and displays using electric power shall have a cutoff switch on the outside of the sign and on the outside of the building or structure to which the sign is attached. No electrically illuminated signs shall be permitted in the Rural Preservation District.
 13. Billboard/advertising signs are allowed only in the Industrial (I) District and shall not be located closer than 1,320 feet to any other sign on the same side of a road. The maximum size of an advertising sign shall not exceed 600 square feet and shall not exceed an overall height of 35 feet. Billboard advertising signs shall require a conditional use permit (CUP).
 14. Multi-faced signs shall not exceed two times the allowed square footage of single-faced signs.
 15. Except for more restrictive parts of this sign section, no sign that exceeds 100 square feet in area shall be erected or maintained:
 - a. Which would prevent any traveler on any road from obtaining a clear view of approaching vehicles on the same road for a distance of 500 feet.
 - b. Which would be closer than 1,350 feet to a national, state, or local park or historic site.
 - c. Which would partly or totally obstruct the view of a lake, river, rocks, wooded area, stream, or other point of natural and scenic beauty.
 16. Any sign erected following the effective date of this Ordinance which does not conform with regulations in this Ordinance shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or land upon which the sign may be found within 30 days after written notice from the zoning administrator.
 17. Portable signs shall not exceed 32 square feet and must advertise the use located on the premises. Portable signs must be securely placed so as to avoid damage or creation of a nuisance. Portable signs may be erected for up to 30 consecutive days. Any portable sign that is in place longer than 30 consecutive days shall be considered a ground sign, must meet the definitions and requirements of a ground sign, and must have a permanent base and framing.
 18. Wall signs shall not project more than 12 inches from the wall.
 19. The total of all canopy or marquee signs, wall signs, and projecting signs attached to a structure shall not exceed 300 square feet in total area.
 20. Projecting signs shall not project over a public sidewalk and shall not be less than 10 feet in height or more than 30 feet in height.
 21. Pedestal signs shall not exceed 75 square feet. The height of such a sign shall not exceed 35 feet, and the sign elements shall be more than 10 feet above the grade.
 22. Ground signs shall not exceed 75 square feet and must be firmly attached to the ground.
 23. Any home occupation as permitted under Section VI of this Ordinance shall be allowed a sign no greater than 32 square feet in area.

Subdivision 3.0 Signs Permitted Per District.

Type of Sign	District Allowed	Maximum Number	Maximum Area
1. Real estate signs	RP, I, UE	Unlimited	None
2. Political signs	RP, I, UE	Unlimited	None
3. Directional and parking signs	RP, I, UE	One per entrance/exit	None
4. Public signs	RP, I, UE	Unlimited	None
5. Identification and nameplate signs	RP, I, UE	Unlimited	None
6. Memorial signs	RP, UE	Unlimited	None
7. Real estate development/ construction signs	RP, UE	One	32 square feet
8. Agricultural product signs	RP	Unlimited	None
9. Crop demonstration signs	RP	Unlimited	None
10. Holiday signs	RP, I, UE	Unlimited	None
11. Institutional signs	RP, I, UE	One	32 square feet
12. Portable signs	RP, I	One	32 square feet
13. Ground and pedestal freestanding signs	RP, I	One	75 square feet
14. Wall and projecting signs, canopy or marquee signs	RP, I	One	A total of 300 square feet
15. Billboard/advertising signs	I	One	600 square feet
16. Home occupation signs	RP, I, UE	One	32 square feet

KEY: RP = Rural Preservation I = Industry UE = Urban Expansion

Subdivision 4.0 Maintenance

1. All signs, together with all of their supports, braces, guys, and anchors, shall be kept in repair and in a proper state of preservation. All signs shall be maintained in a safe, presentable, and good structural condition at all times. Maintenance shall include painting, repainting, cleaning, replacement or repair of defective parts, and other necessary acts. The display surfaces of all signs shall be kept neatly painted or posted at all times.
2. Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed or structurally improved by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign is located within 10 days after written notification from the zoning administrator.
3. All sign locations shall be kept free from unreasonable growth, debris, or rubbish. Failure to correct such conditions after being so directed in writing by the zoning administrator shall be cause for removal of the sign or signs on said location or locations.

Subdivision 5.0 Abandoned Signs

1. Removal Required. Abandoned signs should be removed by the owner of the sign. Any such sign not removed shall be subject to removal by the County 30 days after the zoning administrator shall have served a notice of removal on the owner thereof by mail or, if the owner cannot be found, publication in the legal newspaper of the County. The notice of removal shall specify the nature of the violation, the action required by the owner, and the date by which the action must be completed. If the owner of the sign is not the owner of the premises on which the sign is located, the owner of the premises shall also be served. The expense of removal, if not paid by the owner of the sign within 30 days after removal thereof by the County and billing of the owner of the sign, shall be assessed against the real estate on which the sign is located in the manner in which improvements are assessed. This shall not limit any other rights that the County has to enforce collection of the cost against the owner of the sign and the owner of the property.
2. Exception. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of more than six months.

Subdivision 6.0 Variances

Variances from sign standards may be granted if, upon showing that the size and location of the proposed sign, the size of the structure to which the sign will be affixed, if any, and other space consideration of the area, it is determined that the proposed signs will not be hazardous and will not obstruct the view for or otherwise be detrimental to property or persons in the area.

Subdivision 7.0 Inspection

Signs may be inspected periodically by the zoning administrator for compliance with this Section and other ordinances of the County.

Subdivision 8.0 Enforcement

1. Right of Entry. The zoning administrator shall have the right to enter at any reasonable hour upon any premises, for the purpose of enforcement of this Ordinance.
2. Violations. If the zoning administrator shall find that any of the provisions of this Ordinance are being violated, the zoning administrator shall notify in writing the person responsible for such violations, indicate the nature of the violation, and order the action necessary to correct it or shall take such action authorized by this Ordinance to ensure compliance with or to prevent continued violation of its provisions. The person responsible for the violation shall be given 30 days to correct the violation except in the case of a violation involving portable signs where the person responsible for the violation shall be given five days to correct the violation.

3. **Removal Without Notice.** If a sign is found to be an immediate and serious danger to the public because of its unsafe condition, it may be removed without notice, and notice of removal and reasons for such shall be served as soon as possible under the terms of this Section. The costs of removal may be enforced and assessed as provided in this Ordinance.

SECTION XXI - MINING REGULATIONS

This chapter of the Yellow Medicine County Land Use Ordinance shall be known as the Yellow Medicine County Mining Regulations or the “Mining Regulations.” These mining regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103A-I and the planning and zoning enabling legislation in Minnesota Statutes Chapter 394.

Subdivision 1. Intent and Purpose

1. Short Title. This Ordinance shall be known, cited, and referred to as the Yellow Medicine County Mining Ordinance except as referred to herein where it shall be known as “this Ordinance.”
2. Purpose. This Ordinance is adopted for the purposes of:
 - A. Providing for the economic availability and removal of sand, gravel, rock, soil, and other materials vital to the continued growth of Yellow Medicine County.
 - B. Establishing regulations, safeguards, and controls in the unincorporated areas of the County regarding noise, dust, traffic, drainage, groundwater quality, and other factors which will minimize the environmental and aesthetic impacts on mined or adjacent property.
 - C. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
 - D. Establishing locations, orderly approval process, and operating conditions under which mining operations will be allowed in the unincorporated areas of the County and to establish conditions which ensure the restoration of mined areas consistent with the existing and planned land use patterns.
 - E. Ensuring compliance with the regulations established in this Ordinance on those mining operations presently operating in Yellow Medicine County.
 - F. Bringing operations without a permit into compliance with the performance standards of this Ordinance.

Subdivision 2. Scope and Applicability

1. Adoption of the Yellow Medicine County Mining Ordinance. There is hereby adopted, for purposes of regulating the removal and processing of sand, gravel, rock, soil, or other deposits, the Yellow Medicine County Mining Ordinance. This Ordinance applies to all lands within the unincorporated area of Yellow Medicine County. It is not intended by this Ordinance to repeal, amend, or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with

this Ordinance or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants governing the land. Where this Ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall control. In the event of conflicting provisions in the text of this Ordinance, or any other County Ordinance, the most restrictive shall apply.

Subdivision 3. General Provisions

1. Mining operations operating with a valid Conditional Use Permit issued by Yellow Medicine County prior to the adoption of this Ordinance which remain in compliance with the terms and conditions of the Conditional Use Permit shall be permitted to continue but shall not be permitted to expand, either in size or use, beyond the limits set forth in the approved and recorded Conditional Use Permit without first obtaining a new Conditional Use Permit.
2. No person, firm, or corporation shall hereafter engage in the mining and processing of sand, gravel, granite, or other minerals on any land within Yellow Medicine County without first obtaining a Conditional Use Permit. Borrow sites and temporary grading projects as defined in this Ordinance shall not require a Conditional Use Permit.
3. All legal, nonconforming mining operations operating within Yellow Medicine County without a valid Conditional Use Permit issued by Yellow Medicine County as of the effective date of this Ordinance may continue but may not expand beyond the legally described parcel recorded in the office of the County Recorder. Any mining operation operating in Yellow Medicine County and legally commenced prior to the adoption of this Ordinance shall submit a reclamation plan to the zoning administrator for review and approval upon demand.
4. All mining operations operating within Yellow Medicine County without a valid Conditional Use Permit issued by Yellow Medicine County as of the effective date of this Ordinance shall at a minimum comply with performance standards set forth in Subdivisions 6, 7, and 8 of this Ordinance.
5. The owner/operator of a mining operation shall be responsible for extraordinary maintenance and restoration of all County/township roads leading to the mining operation that may be damaged due to activities involving the mining operation unless the owner/operator can prove that the mining operation was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of the Road Authority and to the Road Authority's satisfaction.
6. In order for Yellow Medicine County to grant a Conditional Use Permit for a new mining operation or the expansion or change in use of an existing operation, whether under permit or not, all of the following criteria must be met:

- A. The mining operation must be located in an agricultural or commercial/industrial zoning district.
- B. The property is at least 20 acres in size.
- C. All other standards for approval of a Conditional Use Permit as contained in the Yellow Medicine County Land Use Ordinance are met.
- D. The operation is consistent with the Yellow Medicine County Comprehensive Plan and is in compliance with all provisions of this Ordinance.

Subdivision 4. Definitions

Following is a list of definitions most pertinent to this chapter of the Yellow Medicine County Land Use Ordinance. For a complete list of definitions, refer to Section 1 – General Provisions.

Abandon - To cease a specific use of a property for a period of 12 consecutive months or more.

Abut - To border upon a parcel of land; to share all or part of a common property line with another parcel of land.

Administrator - The County Zoning Administrator.

Applicant - A person, corporation, or other legal entity recognized by law who applies for a variance, zoning permit, conditional use permit, or other land use permit.

Attorney - The County Attorney.

Board of Adjustment and Appeals - An officially constituted body appointed by the County Board whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the zoning ordinance.

Board of County Commissioners – The Yellow Medicine County Board of County Commissioners.

Borrow Site - An area located within the construction easement from which material is extracted for use in conjunction with a federal, state, County, or township road construction project.

Buffer - A strip of land intended to create physical separation between potentially incompatible uses of land.

Commissioner - The Commissioner of the Department of Natural Resources.

Conditional Use - A use that may be appropriate in a given zoning district but which requires special planning considerations in each instance and which will only be allowed in a specific location under conditions specified by this Ordinance and by the County Commissioners.

Contour Interval - The vertical height between contour lines.

Contour Map - A map on which irregularities of land surface are shown by lines connecting points of equal elevations.

Corrective Action - Any action required by the department to ensure compliance or conformance with this Ordinance and state regulations.

County - Yellow Medicine County, Minnesota.

Cultural Resource - The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of Yellow Medicine County and its people.

Decibel - The unit of sounds measured on the “A” weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the “Standards on Sound Level Meters of the USA Standards Institute.”

District - The word “district” shall mean a section of the County for which the regulations governing the height, area, use of buildings, and premises are the same.

DNR - The Minnesota Department of Natural Resources.

Drainage Course - A watercourse or indenture for the drainage of surface water.

Drainageway - A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Dredging - The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Driveway - A private road or path that is located on the lot that it services and which affords vehicle access to a public road.

Engineer - The County Engineer.

Environmental Impact Worksheet or Statement - That document that might be required under Minnesota Statutes Chapters 116C and D.

Extraction Area - Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth sheltered or conventional construction of residential, commercial, and industrial buildings, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone, or other natural matter or made by turning, breaking, or undermining the surface of the earth, except that public improvement projects shall not be considered extraction areas.

Extractive Use - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.

Fence - Any partition, structure, wall, gate, or planting specifically placed to form a divider marker, barrier, or enclosure and located along the boundary or within the required yard.

Fill - Sand, gravel, earth, or other materials deposited on, moved onto, or placed on a parcel of land.

Filling - The placement of fill on a parcel of land.

Flood Plain - The area subject to inundation by a 100-year flood (regional flood) as designated and mapped by the Federal Emergency Management Agency.

Floodway - The bed of a wetland or lake, the channel of a watercourse, and those portions of the adjoining flood plain that are reasonably required to carry or store the regional flood discharge.

Frequency - The oscillations per second in a sound wave.

Governing Body - The Yellow Medicine County Board of County Commissioners.

Grading, Temporary - Grading, excavating, or filling that meets the following criteria shall be considered temporary:

1. Grading, excavating, or filling of at least 500 and not more than 10,000 cubic yards of material.
2. Grading, excavating, or filling that is temporary in nature, with a one-year time limit.
3. Grading, excavating, or filling that is not located in a Floodplain, Shoreland, or Scenic River District. Grading, excavating, or filling in these districts shall be regulated under the appropriate chapter of the Ordinance specific to each of these districts.

Groundwater - Water contained below the surface of the earth in a saturated zone.

Hazardous Material - A chemical or substance, or a mixture of chemicals or substances, which:

1. Is regulated by the federal Occupations Safety and Health Administration under Code of Federal Regulations, Title 29, Part 1910, subp. Z.
2. Is either toxic or high toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.

Land Reclamation - Activity that is taken during and after a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.

Land Use Permit - A document issued by the office of the zoning administrator to permit construction or the establishment of, but not limited to, all buildings, building additions, structures, towers, basements, farm and wildlife ponds, earth excavations, shoreland repairs and vegetation alterations, mobile homes, trailer houses, all farm buildings, grain bins, corn cribs, silos, feed rooms, milk rooms, etc.

Mining - The excavation, removal, storage, or processing of sand, gravel, rock, soil, clay, or other deposits. For the purposes of this Ordinance, mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:

1. Excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal, or storage.
2. On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
3. Landscaping purposes on a lot used or to be used as a building site.
4. Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development providing activities will be completed in one year.
5. The removal of excess materials in accordance with approved plats or highway construction.

MPCA - The Minnesota Pollution Control Agency.

National Pollutant Discharge Elimination System (NPDES) - A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

Natural Drainageway - A depression in the earth's surface such as ravines, draws, and hollows that has definable beds and banks capable of conducting surface water runoff from adjacent lands.

Natural Resources - The physical values of the land supplied by nature including, but not limited to, animal life, plant life, soil, rock, minerals, and water.

Noise, Ambient - The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominate source.

Noxious Matter - Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

Official Control - Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the Comprehensive Plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps and have been adopted by Yellow Medicine County.

Operator, Mining - Any owner or lessee of mineral rights engaged in or preparing to engage in mining operations.

Ordinance - The Yellow Medicine County Land Use Ordinance.

Ordinary High Water Level or Ordinary High Water Mark – A level 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 level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water level is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

Parking Space - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Percentage of Grade - "Percentage of grade" on street centerline means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Performance Standards - The minimum development standards as adopted by the governing body and on file in the office of the zoning administrator.

Permittee - Any person who obtains a permit from the County pursuant to this Ordinance. A person is a permittee only for the term of the permit.

Planning Commission - The Yellow Medicine County Planning Commission.

Property Line - The legal boundaries of a parcel of property that may also coincide with a right-of-way line of a road, cart way, and the like.

Public Waters – A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose.

Refuse – Putrescible and nonputrescible solid wastes including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes that do not contain free moisture.

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

Resource Inventory - A survey of the land's features including its natural resources, cultural resources, scenic views and view sheds, and physical characteristics.

Right-of-Way - The publicly owned land along a road or highway corridor a portion of which is covered by the road or highway pavement.

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, service road, place or however otherwise designated.

Seasonal High Water Table – The highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.

Sensitive Resource Management - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils

over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Sign - A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

Slope - The amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

Structure – Anything constructed or erected on the ground or attached to the ground or attached to a public utility. Structures may include buildings, transmission towers, signs, electrical substations, pumping stations, poles, wires, overhead or underground electrical, gas, steam or water transmission or distribution systems and structures.

Variance – A modification or variation of the provision of this Ordinance where it is determined that by reason of exceptional circumstances, the strict enforcement of any provision of the local ordinance would cause unnecessary hardship or that strict conformity with the provisions of the local ordinance would be unreasonable, impractical or not feasible under the circumstances.

Waters of the State - All streams, lakes, ponds, 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.

Zoning Administrator - The duly appointed person charged with enforcement of this Ordinance.

Zoning District - An area or areas within the County for which the regulations and requirements of this Ordinance are applied.

Zoning Map - The map or maps incorporated into this chapter as a part thereof designating the zoning districts.

Zoning Ordinance - A zoning ordinance or resolution controlling the use of land as adopted by Yellow Medicine County.

Subdivision 5. Application

1. The application for a Conditional Use Permit for a mining operation must be filed with the Yellow Medicine County zoning administrator. The application must be

made in the name(s) of the operator of the mine and owner of the land to be mined.

The application shall contain the following:

- A. The name and address of the operator and owner of land.
- B. An accurate legal description of the property where the mining shall occur.
- C. Names of the adjacent landowners including all those within a one-half mile radius of the property.
- D. A map of the property where the mining is to occur that clearly indicates the property lines and the limits of the proposed excavation. Topographic data including contours at 10-foot vertical intervals. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
- E. A narrative outlining the type of material to be excavated, mode of operation, estimate of amount of material to be removed, plans for blasting, and other pertinent information to explain the request in detail.
- F. A fee as established by resolution of the County Board.
- G. A general location map showing the proposed mining site in relation to any city within two miles.
- H. A map showing access routes between the property and the nearest arterial road.
- I. Location of roads or streets: show name, right-of-way width, and traveled portion width, railroads, and trails.
- J. Easements: show widths and identify utility or other purposes.
- K. Natural land features: show locations of watercourses and drainageways, floods of record, wetlands, sinks, basins, and wooded areas.
- L. Man-made features: show buildings and other structures, dams, dikes, and impoundments of water.
- M. Adjacent land features: all of the standards above shall apply to delineation of the area within 300 feet of the perimeter of the mined area. In addition, show all platted subdivision lots, metes and bounds parcels, and all homes within one-quarter mile of the property boundaries.
- N. Groundwater: A plan for groundwater quality protection shall be

submitted with the application. The plan shall include a minimum of three borings showing depth to groundwater. If groundwater is not encountered at a depth of 15 feet below the bottom of the proposed pit floor, the applicant need not extend borings any farther.

- O. Cross-sections: A minimum of three cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Commission reserves the right to require additional borings if necessary.
- P. Processing areas shall be identified and boundaries shown to scale.
- Q. Access road to processing and mining areas shown to scale.
- R. An estimate of the life expectancy of the proposed operation including sequences of operation showing approximate areas to scale and serially numbered with a description of each.
- S. Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner, overburden storage areas shall be identified and noted.
- T. Fences and gates shall be shown on the site map, and their type or construction shall be described.
- U. Proposed location of principal service or processing buildings or enclosures shall be shown, as well as location of settling basins and process water ponds.
- V. Site drainage features shall also be shown and flow directions indicated.
- W. Lighting: set forth the planned lighting of the area and any other equipment or structures that will be installed or built.
- X. Reclamation plan in conformance with Section 7.
- Y. The operator must indicate if blasting is proposed as part of the mining operation and frequency of blasting.
- Z. The applicant shall submit grading plans and phased rehabilitation plans to the Yellow Medicine Soil and Water Conservation Service and the appropriate Watershed District or Water Management Organization.
- AA. Any other information or reports the zoning administrator or Planning Commission deems necessary for purposes of evaluating environmental or aesthetic impacts.

2. Environmental Assessment Worksheets, Environmental Impact Statements, and Other Permits.

A. A mandatory Environmental Assessment Worksheet shall be required for development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals that will excavate 40 acres or more of land to a mean depth of 10 feet or more during its existence. Yellow Medicine County will be the responsible governmental unit for the preparation of the Environmental Assessment Worksheet. Costs associated with the preparation of an Environmental Assessment Worksheet shall be borne by the applicant.

B. A mandatory Environmental Impact Statement shall be required for development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals that will excavate 160 acres or more of land to a mean depth of 10 feet or more during its existence. Yellow Medicine County will be the responsible governmental unit for the preparation of the Environmental Impact Statement. Costs associated with the preparation of an Environmental Impact Statement shall be borne by the applicant.

C. Protection of Water Tables. The maximum depth of excavation shall be established so that groundwater quality is protected. This depth of excavation shall be established by the County Board and will be based, in part, upon soil characteristics, depth to water table, nature of mining proposed, and local use of the aquifer. Mining shall not occur in confined aquifers. Excavation into unconfined aquifers must be closely monitored and conducted according to the conditions of the permit.

No extraction operations shall be conducted in such a manner as to permanently lower the water table of surrounding inhabited properties or any other water body.

D. All provisions of the Minnesota Environmental Quality Board Environmental Review Program must be complied with.

E. Permits from the Minnesota Pollution Control Agency may be required for a mining operation in relation to air and water quality. An air quality permit may be necessary for smokestack discharges from processing plants or fugitive dust from operating areas. If the mining operation discharges water (from pit de-watering and/or gravel washing), a State Disposal System permit or a National Pollutant Discharge Elimination System permit may be necessary from the Minnesota Pollution Control Agency. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown that the operator has obtained these permits or none are necessary.

- F. Permits from the Minnesota Department of Natural Resources may be required in the event any type of work is proposed in public waters or if there is a need for de-watering the pit to gain access to sand, gravel, and rock. A permit may also be needed for well in connection with a washing facility. As a condition of any permit issued pursuant to this Ordinance, no mining will be allowed until evidence is shown the operator has obtained these permits or none are necessary.
- G. Any mining operation having access from a state or County highway must obtain an access permit from the respective agency. A turn lane and/or bypass lane may be required by the respective agency to reduce the risk of traffic safety hazards. The cost of construction of a turn or bypass lane shall be the sole expense of the operator.
- H. Abandoned wells must be sealed in accordance with state and County requirements.

Subdivision 6. Operating Conditions

- 1. Operating Conditions. The following operating conditions and standards must be met for all mining operations:
 - A. Setback. No mining, stockpiling, or land disturbance shall take place within:
 - i. 30 feet of adjoining property lines unless the written consent of the owner of the adjoining property is first secured and a copy submitted to the zoning administrator.
 - ii. 500 feet of any existing occupied structures not owned by the operator or owner.
 - iii. 30 feet to the boundary of any district where such operations are not permitted.
 - iv. 500 feet to the boundary of an adjoining property residentially zoned or contiguous property subdivided into residential lots.
 - v. 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. Such excavation shall require written approval of the zoning administrator and the Road Authority.
 - vi. 50 feet from the berm of any public or private ditch system.
 - vii. If two or more mining operations are contiguous to one another, the common boundary may be mined if the County Board approves the respective restoration plans.
 - viii. 100 feet from the high water mark of any public water.

- B. Hours of Operation. Those portions of the mining operation consisting of excavating, stockpiling, processing, or hauling shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless other hours or days of operation are specifically authorized by the County Board. Blasting shall only take place between the hours of 7:00 a.m. and 5:00 p.m., Monday through Saturday.
- C. Dust Control. The owner/operator must construct, maintain, and operate all equipment in such a manner as to minimize on-site and off-site dust conditions. All operations shall meet the standards of the Minnesota Pollution Control Agency. The driveway access to the sand and gravel operation must be set back at least 25 feet from neighboring property lines unless property owners agree to a lesser distance.
- The owner/operator shall maintain all ways and roads within the site in a dust-free condition, providing such surfacing or other treatment as may be deemed necessary by the Planning Commission or the County Board, provided that the treatment produces no potential pollution hazards to the ground and surface waters of the area. All gravel pit access roads shall be provided and maintained with a dustless non-oiled surface. Access roads shall also be constructed and maintained in such a manner that the deposit of earth materials on public roads is minimized. The County Board may require a blacktopped road if deemed necessary.
- D. Noise. All equipment and other sources of noise must operate so as to be in accordance with federal, state, and County noise standards.
- E. Depth of Excavation. The maximum depth of excavation may be regulated based on groundwater protection and/or the ability to restore the property.
- F. Site Clearance. All stumps and other debris resulting from the excavation or related activities should be disposed of by approved methods.
- G. Appearance/Condition. The owner/operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of the landscaped area. Existing trees and topsoil along existing public right-of-way shall be preserved, maintained, and supplemented for the depth of the setback or as stipulated in the conditional use permit or excavation permit.
- H. Waste Disposal. Any waste generated from the mining operation, including sewage, hazardous waste, or waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, and County requirements.
- I. Water Quality Monitoring. Water quality monitoring when required shall conform to the following standards:

Water from monitoring wells and water collected or discharged from the mining area shall be analyzed until one year after reclamation is completed. Samples from monitoring wells shall be taken and testing results submitted prior to the permit renewal. The County Board may require more frequent monitoring. Sampling and testing shall be done by an independent testing laboratory or an agency chosen by the County Board. Monitoring wells shall be sealed one year after reclamation efforts are complete if the site is determined to be uncontaminated. Water samples shall be analyzed to determine the level of nitrates, pesticides, herbicides, and volatile organic compounds specified by the County Board.

- J. Added Provisions. The operator must comply with such other requirements that Yellow Medicine County, from time to time, may find necessary to adopt for protection of the health, safety, and welfare. All applicable State and Federal Rules shall be adhered to.
- K. Processing. Any mining operation in which processing is proposed must meet the following performance standards:
 - i. A conditional use permit is required for any new or existing mining operation that desires to add processing equipment on-site.
 - ii. The application must include the nature of the processing and equipment, location of the plant, source of water, disposal of water, and reuse of water.
 - iii. Operators who wish to have processing equipment shall meet the following criteria:
 - a. Crushing equipment must be placed in the bottom of the pit area if practical, otherwise located in such a manner as to have the least environmental and aesthetic impact.
 - b. All federal, state, and local air, water, and noise quality standards must be met.
 - c. Setback requirements as set forth in this Ordinance must be met.
 - iv. A temporary processing plant in conjunction with a specific road project, located in close proximity to the subject road, will be allowed subject to the following conditions:
 - a. All federal, state, and local air, water, and noise quality standards must be met.
 - b. A conditional use permit must be obtained.
 - c. The processing equipment must be located so as to minimize the effect on surrounding property owners.
 - d. Site selection shall not have a negative effect of the public health, safety, and welfare.
 - e. No materials, outside of the designated right-of-way, may be excavated or removed from the site without a conditional use permit for mining.
 - f. A bond, in an amount determined by the County Board,

must be posted to assure restoration of the site.

L. Recycling. The crushing/processing or storage of used aggregate, concrete, and asphalt will be permitted subject to the following conditions:

- i. A conditional use permit is obtained.
- ii. The processing equipment must be located so as to minimize the effect on surrounding property owners.
- iii. Site selection shall not have a negative effect on the public health, safety, and welfare.
- iv. All federal, state, and local air, water, and noise quality standards must be met.

M. Trucking Operations. The operator shall ensure all loads leaving any pit regulated by this Ordinance are loaded so as to comply with state law.

Trucks used in hauling materials from the site of excavation shall be loaded in such manner as to minimize spillage onto public highways. Any spillage resulting from overloading or from truck tires shall be removed at regular intervals.

N. Temporary Asphalt and Concrete Plants. A Conditional Use Permit shall be required for all temporary asphalt and concrete plants. Temporary asphalt and concrete plants may be allowed if the following conditions are met:

- i. All setbacks as set forth in this Ordinance must be met.
- ii. All federal, state, and local air, water, and noise quality standards must be met. An air quality permit must be obtained from the Minnesota Pollution Control Agency.
- iii. The owner/operator must provide a plan to prevent surface and groundwater contamination.
- iv. Equipment must be located in such a manner so as to have the least environmental and aesthetic impact.
- v. Site selection shall not have a negative effect on the public health, safety, and welfare.
- vi. No materials may be excavated or removed from the site without a conditional use permit for mining.
- vii. A bond, in an amount determined by the County Board, must be posted to assure restoration of the site.

O. Fuel Storage. All on-site storage of fuel must meet federal, state, and local standards.

Subdivision 7. Reclamation

1. Reclamation. A reclamation plan shall contain supporting information:

- A. Intent of reclamation.
 - B. Methods and processes of reclamation.
 - C. Initial condition of mining site.
 - D. Limits of various operational areas.
 - E. Phasing and timing of operation and reclamation including areas to be stripped of overburden.
 - F. Final condition of site, including proposed contours and potential development plan.
 - G. Relation of final site condition to adjoining landforms and drainage features.
 - H. Relation of reclaimed site to planned or established uses of surrounding land.
2. Timing. Restoration should proceed in a continuous manner and must be subject to review and approval at each inspection and at the end of the permit period.
3. Excavations resulting in the accumulation of substantial water areas after rehabilitation must meet the following requirements:
- A. The water depth must not be less than three feet measured from the low water mark, unless a plan for creation of a wetland or marsh has been approved.
 - B. All banks shall be sloped to the water line at a slope that shall not be steeper than four feet horizontal to one foot vertical.
 - C. All banks shall be surfaced with soil of a quality of at least equal to the topsoil of land areas immediately surrounding and to a depth of at least four inches. Sodding or seeding and mulching are also required. Mulch must be properly anchored.
 - D. The topsoil as required by subsection C above shall be planted with trees, shrubs, legumes, or grasses.
 - E. Slopes on reclaimed areas shall not be steeper than four feet horizontal to one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
 - F. In man-made groundwater lakes, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body a

maximum slope of three feet horizontal to one foot vertical for at least 30 feet from the proposed shoreline toward the center of the water body.

- G. All groundwater lakes or wetlands classified by the Department of Natural Resources shall be subject to the County's Shoreland Management Ordinance.
4. Excavations not resulting in water areas after rehabilitation but which must be graded or backfilled shall meet the following requirements:
- A. Fill shall be inspected and certified as being clean (free of volatile organic compounds and heavy metals) before being used for reclamation. Organic soil shall be used only for topsoil.
 - B. Such grading or backfilling shall be made with non-noxious, nonflammable, noncombustible solids. Any fill shall consist of native material only.
 - C. The graded or backfilled area shall not collect or permit stagnant water to remain therein.
 - D. The peaks and depressions of the area shall be reduced to a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
 - E. Such graded or backfilled area shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth at least four inches.
 - F. Such topsoil as required by Letter E above shall be planted with trees, shrubs, legumes, or grasses.
 - G. Slopes on reclaimed areas shall not be steeper than four feet horizontal on one foot vertical. Exceptions may be made in cases where non-erodible conditions are present.
 - H. All rehabilitation areas that are planned for building purposes shall have a final elevation at least 10 feet above the normal ordinary groundwater level. If public sewer is not available, plans for on-site septic systems must be considered. If the area is backfilled for purposes of future development, the soil must be compacted and subsequently tested by a registered soils engineer and approved.
5. Drainage. Reclamation shall proceed in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the least degree necessary to carry out excavation and related activities. Any alteration of

natural and storm drainage shall not adversely affect public roads or neighboring uses.

6. Cover and Planting. The reclamation area shall be planted with grass, trees, shrubs, or other vegetation to prevent erosion and provide for screening and natural beauty. Technical assistance and soils data should be obtained from appropriate state and federal officials, conservation districts, and the nearest soil conservation service office.
7. Topsoil. When topsoil is stripped or removed, an adequate amount must be retained and set aside on the site for re-spreading over the excavated area according to the reclamation plan. These overburden stockpiles must be used to minimize the effects of erosion of wind or water upon public roads, streams, or adjacent land uses and shall not be sold or removed from the property.
8. Final Restoration/Removal of Structures. Within a period of 12 months after the termination of a mining operation, or within 12 months after abandonment of such operation for a period of 12 months, all buildings and other structures not otherwise allowed under the Zoning Ordinance must be removed from the property and the property restored in conformance with the reclamation plan.

Subdivision 8. Insurance, Financial Guarantees, Fees, and Inspections

1. Bond. An operator must post a bond, cash deposit, or other security in such form and sum as the County Board may require to cover the cost of reclamation of the property. Bonds shall be for a minimum of one year and shall include a provision for notification to the County at least 30 calendar days prior to cancellation or non-renewal.
2. Fees. Permit fees will be charged based on resolution of the County Board. Fees may cover all administrative costs associated with the permit application, annual review, and costs of inspections.
3. Inspections. As a condition of approval of a mining permit, Yellow Medicine County staff has the right to go on the subject property after providing reasonable notice to the operator.

Subdivision 9. Violations and Penalties

1. Any firm, person, or corporation who violates any of the provisions of these regulations shall be guilty of a full misdemeanor and, upon conviction thereof, shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or threatened violation of any of the terms of this Ordinance, the County may take appropriate action to enforce this Ordinance

including application for injunctive relief, action to compel performance, or other appropriate action to court if necessary to prevent, restrain, correct, or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements, and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.

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

Subdivision 10. Termination of Permit

1. Any permit granted pursuant to this Ordinance may be revoked for a violation of any provisions of this Ordinance or any conditions of the permit.
2. Revocation shall not occur earlier than 10 County working days from the time written notice of revocation is served upon the permittee or, if a hearing is requested, until written notice of the County Board action has been served on the permittee. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that if the permittee desires to appeal, a request for a hearing must be filed within 10 working days, exclusive of the day of service. The hearing request shall be in writing, stating the grounds for appeal, and served personally or by registered or certified mail on the Yellow Medicine County Administrator by midnight of the tenth County working day following service. Following the receipt of a request for hearing, the County Board shall set a time and place for the hearing.

Subdivision 11. Effectuation

1. It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:
 - A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other

provisions of this Ordinance not specifically included in said judgment.

- B. If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

SECTION XXII – CLOSED LANDFILL RESTRICTED (CLR) DISTRICT

Subdivision 1.0 Purpose

The Closed Landfill Restricted (CLR) District is intended to apply to former landfills that are qualified to be under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the district is to limit uses of land within the closed landfill, both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place and, at the same time, are protective of human health and safety. This district shall only apply to the closed landfill's Land Management Area, the limits of which are defined by the MPCA. This district shall apply whether the landfill is in public (MPCA, County, City, Township), Indian tribal, or private ownership.

For purposes of this Ordinance, the Land Management Area for the Yellow Medicine County Landfill, a qualified facility under the MPCA's Closed Landfill Program, is described as:

Parcel No. 17-114-1061: That part of the Southeast Quarter of the Northeast Quarter, and Northeast Quarter of the Southeast Quarter, Section 14, Township 116 North, Range 40 West of the Fifth Principal Meridian, Yellow Medicine County, Minnesota, lying southwesterly of U.S. Trunk Highway No. 212.

Parcel No. 17-113-3021: That part of the West Half of the Southwest Quarter of Section 13, Township 116 North, Range 40 West of the Fifth Principal Meridian, Yellow Medicine County, Minnesota, lying southwesterly of U.S. Trunk Highway No. 212. Except that part of said Southwest Quarter embraced within the following described tract of land:

Commencing at the intersection of the southwesterly line of said U.S. Trunk Highway No. 212 with the west line of said Southwest Quarter; thence South 47 degrees 13 minutes 37 seconds East, bearings based on Yellow Medicine County Coordinate Grid, along said southwesterly line, a distance of 1051.47 feet to a point of curvature on said southwesterly line, said point being marked by a Minnesota Department of Transportation right-of-way monument and the point of beginning of the tract of land to be described; thence continuing southeasterly, along said southwesterly line, a distance of 933.92 feet, along a tangential curve, concave to the southwest, having a radius of 2241.83 feet and a central angle of 23 degrees 52 minutes 08 seconds to a point of curvature on said southwesterly line; thence South 23 degrees 21 minutes 29 seconds East, along said southwesterly line, a distance of 423.30 feet to an iron re-bar marked by License No. 19092; thence South 66 degrees 39 minutes 17 seconds West a distance of 400.35 feet to an iron re-bar marked by License No. 19092; thence North 31 degrees 02 minutes 25 seconds West a distance of 1179.43 feet; thence North 42 degrees 50 minutes 47 seconds East, a distance of 400.31 feet to said point of beginning.

Parcel No. 17-113-3041: That part of Government Lot 4, Section 13, Township 116 North, Range 40 West of the Fifth Principal Meridian, Yellow Medicine County, Minnesota, lying southwesterly of U.S. Trunk Highway No. 212 and southerly of the following described line:

Commencing at the intersection of the southwesterly line of said U.S. Trunk Highway No. 212 with the west line of said Southwest Quarter; thence South 47 degrees 13 minutes 37 seconds East, bearings based on Yellow Medicine County Coordinate Grid, along said southwesterly line, a distance of 1051.47 feet to a point of curvature on said southwesterly line, said point being marked by a Minnesota Department of Transportation right-of-way monument; thence continuing southeasterly, along said southwesterly line, a distance of 933.92 feet, along a tangential curve, concave to the southwest, having a radius of 2241.83 feet and a central angle of 23 degrees 52 minutes 08 seconds to a point of curvature on said southwesterly line; thence South 23 degrees 21 minutes 29 seconds East, along said southwesterly line, a distance of 423.30 feet to an iron re-bar marked by License No. 19092 and the point of beginning of the line to be described; thence South 66 degrees 39 minutes 17 seconds West a distance of 400.35 feet to an iron re-bar marked by License No. 19092 and said line there terminating.

Parcel No. 17-124-2011: That part of the North Half of the Northeast Quarter of the Northwest Quarter of Section 24, Township 116 North, Range 40 West of the Fifth Principal Meridian, Yellow Medicine County, Minnesota, lying southwesterly of U.S. Trunk Highway No. 212 and northerly of County Road No. 5 as presently laid out and traveled.

(Official Map – Appendix B)

Subdivision 2.0 Permitted Uses

The following uses are permitted within the CLR District:

- 1) Closed Landfill Management – identified in Appendix F
- 2) Agricultural – only in the Agricultural Use area as identified in Appendix G

Subdivision 3.0 Accessory Uses

Accessory uses allowed in this district include outdoor equipment or small buildings used in concert with gas extraction systems, other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates shall apply under these provisions.

Subdivision 4.0 Prohibited Uses and Structures

All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR District.

Subdivision 5.0 Non-conforming Uses

Any repairs or alterations to any existing non-conforming uses as of the adoption date of this Ordinance, shall be a permitted use.

Any additions to any existing non-conforming uses shall require a conditional use permit.

Subdivision 6.0 Amendments

Any amendment to this ordinance must be approved by the Commissioner of the MPCA and the Yellow Medicine County Zoning Administrator.

Appendix B: Site Location Map - YELLOW MEDICINE SANITARY LANDFILL



Minnesota Pollution Control Agency

Site Contacts

Land Manager: Tom Newman

Engineer: Ben Klismith

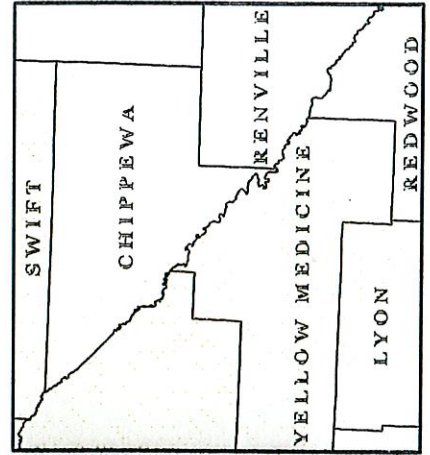
Hydrogeologist: Michelle Sutherland



Site Features

Waste Footprint

Land Management Area
Designates the property that is under the responsibility and control of the MPCA.



DISCLAIMER: The State of Minnesota makes no representations or warranties to the user as to the accuracy, currency, suitability or reliability of this data for any purpose. This map depicts a reasonable approximation of impacts from the landfill only and makes no inference about impacts from other potential sources.

Appendix F: Closed Landfill Management Use - YELLOW MEDICINE SANITARY LANDFILL



Image courtesy of Google © 2013 Microsoft Corporation
Created 2/21/2013

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Minnesota Pollution Control Agency




Site Contacts

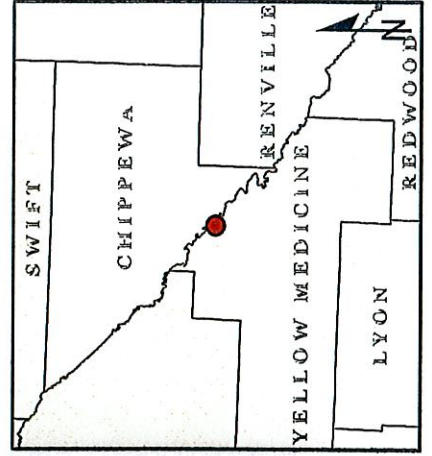
Land Manager: Tom Newman

Engineer: Ben Klismith

Hydrogeologist: Michelle Sutherland

Site Features

-  **Waste Footprint**
-  **Land Management Area**
Designates the property that is under the responsibility and control of the MPCA.
-  **Closed Landfill Management Use**



Appendix G: Agricultural Use - YELLOW MEDICINE SANITARY LANDFILL



Minnesota Pollution Control Agency

Site Contacts

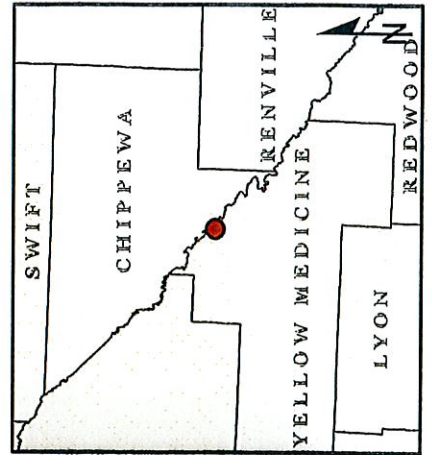
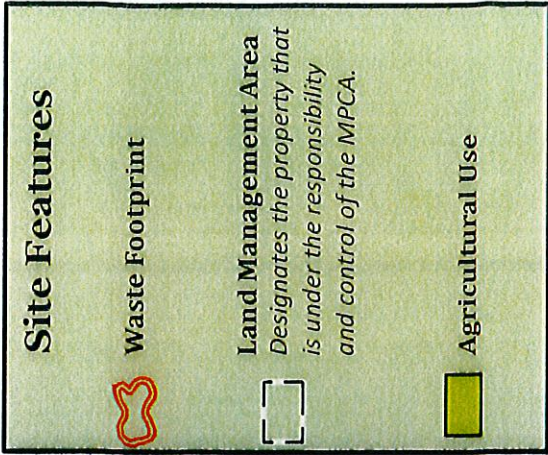
Land Manager: Tom Newman

Engineer: Ben Klismith

Hydrogeologist: Michelle Sutherland



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SECTION XXIII – EFFECTIVE DATE AND REPEALER

Subdivision 1.0 Effective Date

This Ordinance shall be in force and effect upon the due passage and publication in the manner provided by law.

In the event this Ordinance is amended in a way that materially affects a pending application thereunder, the County retains the discretion to apply the Ordinance in effect on the date a completed application was received by the County.

Subdivision 2.0 Repealer

This Ordinance repeals certain Ordinances and Resolutions relating to Private and Public Lands and Water Use, and Community Facilities and Regulations and Official Controls thereunder in conflict with the Yellow Medicine County Land Use and Related Resources Management Ordinance enacted February 24, 2009.