



## **LAND USE AND ZONING ORDINANCE #439**

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#484	April 23, 2013	May 14, 2013
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#492	January 7, 2014	January 28, 2014
#499	April 22, 2014	May 7, 2014
#501	July 29, 2014	August 19, 2014
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**STEARNS COUNTY  
LAND USE AND ZONING ORDINANCE  
NUMBER 439**

**THE COUNTY BOARD OF STEARNS COUNTY ORDAINS:**

**SECTION 1     PURPOSE, AUTHORITY AND JURISDICTION**

**1.1    Title**

This Ordinance shall be known, cited and referred to as the “Stearns County Land Use and Zoning Ordinance”. When referred to herein, it shall be known as “this Ordinance”.

**1.2    Statement of Purpose**

This Ordinance is adopted for the purposes of:

- A. Protecting and promoting the public health, safety, welfare and morals.
- B. Promoting and providing for the orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses.
- C. Preserving agricultural land and animal agriculture.
- D. Conserving natural and scenic areas of the County.
- E. Conserving natural resources and open spaces.
- F. Providing official controls to implement the goals and policies included in the Stearns County Comprehensive Plan.

**1.3    Statutory Authorization**

This Ordinance is adopted pursuant to the authorization and policies contained in *Minnesota Statutes, chapter 394; Minnesota Statutes, chapter 103B; Minnesota Statutes, chapter 116; and Minnesota Statutes, chapter 103F; or successor statutes and Minnesota Rules, chapter 7020; or successor rules.*

**1.4    Jurisdiction**

This Ordinance shall apply to all areas in Stearns County, Minnesota:

- A. Except areas within the incorporated limits of any city, however organized, except as provided by law; and
- B. Except as otherwise provided by law.





## **SECTION 2        GENERAL PROVISIONS**

### **2.1    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.

### **2.2    Severability**

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

### **2.3    Interpretation**

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

### **2.4    Compliance**

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance. No permit or other authorization pursuant to this Ordinance shall be issued by the Department or County Board if the owner or applicant has unresolved violations of the provisions of this Ordinance unless and until the property owner or applicant is in compliance with the Ordinance provisions or has signed a legally binding agreement with Stearns County to correct said violation. Unresolved violations relating to a pollution hazard at an animal feedlot are not subject to the provisions in *Section 2.4 of this Ordinance*.



## SECTION 3        DEFINITIONS

### 3.1    Rules of Interpretation

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- 3.1.1    The word “shall” is mandatory and not discretionary; the word “may” is permissive.
- 3.1.2    The word “person” includes any individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes any trustee, receiver, assignee or other similar representative thereof.
- 3.1.3    Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular.
- 3.1.4    Words shall be given their common usage if not defined herein.

### 3.2    Definitions

For the purposes of this Ordinance, the following definitions shall apply:

#### **Accessory Structure**

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

#### **Accessory Use**

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

#### **Active Cemetery**

A cemetery that has had a burial occur within the past twelve (12) months.

#### **Addition**

A structure added laterally to an existing building and occupying ground without the limits of the building to which it constitutes an addition. The addition of minor structural elements such as chimneys, bay windows and roof overhangs of two (2) feet or less shall not be considered as an addition. The enclosure or partial enclosure of an existing screened porch, deck, roofed deck, patio or roofed patio shall be considered an addition.

#### **Adult Uses**

Adult uses include adult bookstores, adult motion picture theatres, adult motion picture sales/rental, adult mini-motion picture theatres, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios 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. Activities classified as obscene as defined by *Minnesota Statutes section 617.241*; or *successor statutes*, are not included.

- A.    Specified anatomical areas include, but are not limited to:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and,
  - (2) Exposed or opaquely covered human male genitals.
- B. Specified Sexual Activities include, but are not limited to:
- (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 sexually-oriented acts or 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; or,
  - (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or,
  - (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or,
  - (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 restraint of any such persons; or,
  - (6) Touching, fondling or other sexually-oriented contact with an animal by a human being; or,
  - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.
- C. Adult Uses - Accessory – The offering of retail or whole sale goods which are classified as adult uses and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include, but are not limited to, the sale of adult magazines, the sale or rental of adult motion pictures, the sale of adult novelties and the like.
- D. Adult Uses – Principal – The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:
- (1) Adult Use – Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude.
  - (2) 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 films, if such building or portion of a building is not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction of

- description of, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
- (3) 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 excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (4) Adult Use – Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (5) Adult Use – Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (6) Adult Use – Health/Sport Club. A health/sport club that excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (7) Adult Use – Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (8) Adult Use – Massage Parlor, Health Club. A massage parlor or health club that restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (9) Adult Use – Mini-Motion Picture Theatre. A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
  - (10) Adult Use – Modeling Studio. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in, including but not limited to,

- “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.
- (11) Adult Use – Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (12) Adult Use – Motion Picture Theatre. A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
  - (13) Adult Use – Novelty Business. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
  - (14) Adult Use – Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.
  - (15) 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 restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on, including but not limited to, “specified sexual activities” or “specified anatomical areas”.

**Aggregated Project**

Aggregated projects are those WECS projects 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 Operation**

Real or personal property used for the production of crops including, but not limited to, fruit and vegetable production, tree farming, livestock, poultry, dairy products or poultry

products, but not a facility primarily engaged in processing agricultural products. An agricultural operation shall also include certain farm activities and uses as follows:

- A. Chemical and fertilizer spraying
- B. Farm machinery noise
- C. Extended hours of operation
- D. Storage and spreading of manure and biosolids under state permit
- E. Open storage of machinery
- F. Odors produced from normal farm activities
- G. On farm marketing of farm products
- H. Yard waste and leaf composting site
- I. Contaminated soils disposal

### **Agriculturally Oriented Business**

A business including, but not limited to, commercial storage and blending of liquid and dry fertilizers; grain and feed sales; general repair and installation services for agricultural equipment; custom meat, dairy or other agricultural product processing; agricultural supply and product sales or warehousing; livestock sales barns and accessory facilities; agriculture-related compost facilities; greenhouse and nursery sales; petting zoos; riding stables; agricultural trucking operations; and farm winery.

### **Airstrip, Private**

An area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

### **Alcohol Manufacturing**

Brewing, distilling or other manufacturing of alcohol intended for wholesale or retail sale for the end use of human consumption in beer, wine or spirits.

### **Alteration**

An increase in the height or depth of a building. (See also Structural Alteration)

### **Alternative Shoreland Management Standards**

An optional set of Shoreland Management Standards developed pursuant to the Governor's 2003 Clean Water Initiative and offered for use by local governmental units to compliment and enhance their existing shoreland management regulations. These Alternative Shoreland Management Standards are referenced herein as *part ALT6120 et. seq.*, dated December 12, 2005.

### **Animal Feedlot**

An animal feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots. For purposes of these parts, petting zoos, horse stalls, riding arenas, open lots and mink farms shall be considered to be animal feedlots. Pastures shall

not be considered animal feedlots. Animal feedlot shall include any manure storage structure.

**Animal Manure**

Animal manure means poultry, livestock or other animal excreta or a mixture of excreta with feed, bedding, precipitation or other material.

**Animal Unit or A.U.**

“Animal Unit” means a unit of measure used to compare differences in the production of animal manure that employs as a standard, the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or a manure storage area, calculated by multiplying the number of animals of each type in items A to I by the respective number of animal units. For purposes of this Ordinance, the following multiplication factors shall apply:

A. Dairy cattle:

- (1) one mature cow (whether milked or dry);
  - (a) over 1,000 pounds, 1.4 animal unit; or
  - (b) under 1,000 pounds, 1.0 animal unit
- (2) one heifer (> or equal to 500 pounds including springing heifers), 0.7 animal unit; and
- (3) one calf (<500 pounds), 0.2 animal unit;

B. Beef cattle:

- (1) one slaughter steer, slaughter heifer or stock cow, 1.0 animal unit;
- (2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;
- (3) one cow and calf pair, 1.2 animal unit; and
- (4) one calf, 0.2 animal unit;

C. One head of swine:

- (1) over 300 pounds, 0.4 animal unit;
- (2) between 55 pounds and 300 pounds, 0.3 animal unit; and
- (3) under 55 pounds, 0.05 animal unit;

D. One horse, 1.0 animal unit;

E. One sheep or lamb, 0.1 animal unit;

F. Chickens:

- (1) One laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
- (2) One chicken, if the facility has a dry manure system:
  - (a) over 5 pounds, 0.005 animal unit; or
  - (b) under 5 pounds, 0.003 animal unit;

G. One turkey:

- (1) over 5 pounds, 0.018 animal unit; or
- (2) under 5 pounds, 0.005 animal unit;

H. One duck, 0.01 animal units; and



- I. For animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds. Animal unit changes made on May 22, 2001 shall not allow animal unit increases to any permitted animal feedlot without a reapplication for a County or State feedlot permit.

**Animals, Domestic Farm**

Cattle, hogs, horses, sheep, goats, chickens and other animals commonly kept for food production or other purposes.

**Animals, Domestic Pets**

Dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or non-domestic, such as lions, bears, wolves and similar animals, shall not be considered domestic pets.

**Antenna, Personal Wireless Service**

A device consisting of metal, carbon fiber or other electromagnetically conductive rods or elements on a single supporting pole or other structure and used for the transmission and reception of wireless communication radio waves, including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services, including the wiring, related ground equipment and supporting structure thereof.

**Antenna, Microwave**

A parabolic dish or cornucopia shaped, electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless communications, including the wiring, related ground equipment and the supporting structure thereof.

**Antenna, Radio and Television Broadcast Transmitting**

A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio or television programming, including the wiring, related ground equipment and the support structure thereof.

**Antenna, Radio and Television Receiving**

A wire, set of wires, metal or carbon fiber element(s) other than satellite dish antennas, used to receive radio, television or electromagnetic waves, including the supporting structure thereof.

**Antenna, Satellite Dish**

A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the wiring, related ground equipment and support structure thereof.

**Antenna, Short-Wave Radio Transmitting and Receiving**

A wire, set of wires or a device consisting of a metal, carbon fiber or other electromagnetically conductive element used for the transmission and reception of radio waves used for non-commercial short-wave radio communications, including the supporting structure thereof.

**Antenna Support Structure**

Any pole, telescoping mast, tower, tripod or any other structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services such as microwave backhaul, and the associated site.

**Antenna Support Structure, Existing**

A constructed antenna support structure or base station is existing for purposes of this Ordinance, provided that it is existing at the time the relevant application is filed with the Department.

**Antenna Support Structure Site**

For antenna support structures other than antenna support structures in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures, the area in proximity to the structure and to other transmission equipment deployed on the ground.

**Attached**

Shall mean structurally affixed to, contiguous to, and sharing a common wall with, i.e. an attached garage. For the purposes of this Ordinance, a breezeway or other similar addition connecting one structure to another structure or part of a structure shall not be deemed to attach that structure to the other structure or part of a structure.

**Aquaculture**

The culture of aquatic life for consumption or sale.

**Averaging Method**

A method of determining the building line whereby the distances between the OHWL and the principal structures on either side of a proposed or existing principal structure are measured and averaged. The resulting product is the allowable building line. Where one or more of the principal structures is located in the shore impact zone, the shore impact zone, where it intersects the property line, shall be used to calculate the setback from the OHWL.

**Base Station**

A structure or equipment at a fixed location that enables Federal Communications Commission (FCC)-licensed or authorized wireless communications between user equipment and a communication network. The term does not encompass an antenna support structure as defined herein or any equipment associated with an antenna support structure. Base Station includes, without limitation:

- A. Equipment associated with wireless communication services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems) and small-cell networks.
- C. Any structure other than an antenna support structure that, at the time the relevant application is filed with the Department supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time of the relevant application is filed with the Department under this section, does not support or house equipment described in this section.

**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.

**Beauty Shops**

Any establishment where cosmetology services are provided including hair care, nail care and skin care on a regular basis for compensation.

**Bed and Breakfast Inn**

An owner-occupied single family dwelling unit in which not more than five (5) rooms are rented on a nightly basis for a period of seven (7) or fewer consecutive days by the same person. Meals may or may not be provided to residents or overnight guests.

**Biofuel Plants**

The processing, distillation or refining of biomass material (plants, animals and their by-products) or bio-wastes (municipal solid waste (MSW), agricultural residues, farm waste and other biodegradable waste streams) into solid, liquid or gaseous fuels for any use.

**Bluff**

A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than eighteen (18%) percent over a distance of fifty (50) feet or more shall not be considered part of the bluff):

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body;
- C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30%) percent or greater; and
- D. The slope must drain toward the water body.

**Bluff Impact Zone**

A bluff and the land located within twenty (20) feet from the top of a bluff.

**Board**

Stearns County Board of Commissioners or County Board.

**Boathouse**

A structure designed and used solely for the storage of boats.

**Boat Launch**

A facility to launch and retrieve recreational boats from a trailer.

**Bowling Alleys**

An establishment that devotes more than fifty (50) percent of its gross floor area to bowling lanes, equipment and playing area.

**Brick and Tile Manufacturing**

A manufacturing facility for the production of brick or tile for resale on the wholesale or retail market.

**Buffer**

A strip of land intended to create a physical separation between potentially incompatible uses of land.

**Buildable Lot Area**

The minimum contiguous area remaining on a lot or parcel of land after all setback requirements, bluffs, areas with slopes greater than twenty-five (25) percent, all easements and rights-of-way, historic sites, wetlands, floodways and lands below the ordinary high water level of public waters are subtracted for the purpose of placement of structures.

**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.

**Campground**

A development that is used for the purpose of providing sites for non-permanent overnight use by campers using tents, trailers, recreation camping vehicles or other temporary shelters.

**Cement Production**

Cement production means any facility which crushes, screens, heats or otherwise processes materials such as silica, alumina, iron oxide or like materials into compounds used primarily for the manufacture of concrete. A facility that extracts or removes sand, gravel, topsoil, dirt or other natural resources shall not be considered a cement plant unless the facility also crushes, screens, heats or otherwise processes materials such as silica, alumina, iron oxide or like materials into compounds used primarily for the manufacture of concrete.

**Cemeteries**

Property used for the interring of the dead.

**Change in Operation**

Shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 7; or successor rules*.

**Churches**

A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**Clear-cutting**

Clear-cutting means the removal of an entire stand of vegetation.

**Cluster Development**

A pattern of subdivision development that places housing units into compact groupings.

**Clustering or Clustered**

A development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups so as to make efficient and visually aesthetic use of the natural features of the landscape.

**College or University**

A post-secondary institution authorized by the state to grant accredited degrees.

**Collocation**

The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Commercial Speech**

Speech advertising a business, profession, commodity, service, or entertainment.

**Commercial Use**

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

**Commissioner**

Commissioner means the Commissioner of the Department of Natural Resources.

**Common Interest Community**

A common interest community shall have the meaning given in *Minnesota Statutes, chapter 515; or successor statutes*.

**Common Open Space**

A portion of a development site that is permanently set aside for public or private use, is held in common ownership by all individual owners within a development and will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites and areas unsuitable for development in their natural state.

**Community Buildings**

A building or structure for use by non-profit or civic groups such as a Lions Club, Sportsmans Club or Senior Center.

**Community Water and Sewer Systems**

Utility systems serving a group of buildings, lots or areas of the County, with the design and construction of such utility systems, as approved by the County.

**Comprehensive Plan**

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.

**Conditional Use**

A conditional use shall have the meaning given in *Minnesota Statutes, section 394.22, subdivision 7; or successor statutes.*

**Condominium**

A condominium shall have the meaning given in *Minnesota Statutes, chapter 515; or successor statutes.*

**Contiguous Tract**

The following rules shall apply when determining contiguous property:

- A. Tracts that are geometrically touching at any one point are contiguous.
- B. Contiguous tracts which cross political subdivision boundaries remain contiguous.
- C. Tracts purchased under separate documents remain individual and unique.
- D. Except when determining lot coverage, property that would be contiguous under these rules, but for the fact that the property is separated by a public or private road, driveway, thruway etc., shall be deemed to be contiguous.

**Contractors' Yard**

A site used for the storage of vehicles, equipment, and materials by a person whose business is contracting work in any of the building trades, road building, sewer installation, or a similar trade.

**Convenience Stores**

Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.

**Cooperative**

A cooperative shall have the meaning given in *Minnesota Statutes, chapter 515; or successor statutes.*

**Corner Lot**

A lot situated at the junction of, and fronting on, two or more roads or highways.

**County**

Stearns County, Minnesota.

**Day Care Centers**

Any facility operated for the purpose of providing care, protection and guidance to children during only part of a 24-hour day.

**Deck**

A horizontal, unenclosed platform with or without attached railings, seats, trellises and attached or functionally related to a principal use or site and at any point extending more than one (1) foot above ground.

**Department**

The Stearns County Environmental Services Department.

**Designated Trout Stream**

Officially designated trout streams designated as such by order of the Commissioner of the Department of Natural Resources.

**Director**

The Director of the Stearns County Environmental Services Department.

**Discontinued Animal Feedlot**

An animal feedlot nonconforming as to use that has not been stocked with a minimum of one (1) animal unit (of the same animal type as present January 1, 2002 or as stated in a more recent permit) within 12 consecutive months except as provided in *Minnesota Statutes, section 116.0711 subd.1; or successor statutes.*

**Disposal Facility**

A facility for the storage, reduction, recycling, processing or disposal of solid waste.

**District**

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

**Ditch**

Any depression two (2) feet or more below the surrounding land serving to give direction to a current of water and having a bed and well-defined bank. A ditch is generally not able to be plowed or tilled due to its depth or width.

**Domestic Fertilizer**

Shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 11; or successor rules.*

**Dormer**

A projection built out from a sloping roof that may house a vertical window, ventilating louver or door.

**Drive in Business**

Any portion of a building or structure from which business is transacted or is capable of being transacted directly with customers while occupying, or facilitated by, drive through or drive-up in a motor vehicle.

**Duplex, Triplex and Quad**

A residential structure on a single lot which has two, three or four dwelling units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**Dwelling Site**

A designated location for residential use by one or more persons using temporary or movable shelters, including camping and recreational vehicle sites. For the purposes of administering this Ordinance, this definition shall apply to *Section 10.2.23*.

**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. For the purposes of administering this Ordinance, this definition shall apply to *Section 10.2.23*.

**Easement, Utility**

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

**Eating and Drinking Establishments**

An establishment that serves food and/or beverages, including liquor and includes establishments such as taverns, clubs, lodges, restaurants, bars, pubs or nightclubs.

**Electric Power Manufacturing**

A permanent installation of generating equipment whose primary purpose is the conversion of an energy fuel (coal, gas, diesel, biomass or other fuel, but not wind or solar) to electric energy.

**Eligible Support Structure**

An antenna support structure or base station as defined in this Ordinance, provided that it is existing at the time the relevant application is filed with the Department.

**Encroachment**



An advancement beyond the usual or proper limits. When used for determining animal feedlot setback requirements, encroachment is determined by measuring from the closest point of the existing permitted or registered animal feedlot.

**Energy Recovery Facility**

Energy recovery facility means a facility or process that captures the heat value of solid waste for conversion to steam, electricity or immediate heat by direct combustion or by first converting the solid waste into an intermediate fuel product. Municipal solid waste combustors shall be included in the definition of energy recovery facility.

**Equal Degree of Encroachment**

A method 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.

**Equipment Storage – Outdoor, Residential Manufactured Home District (RMH)**

The keeping, in an unenclosed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

**Equivalent Land Area**

An area of land that is set aside for non-residential purposes as a part of the subdivision process. The equivalent land area is determined by subtracting the development area (land being subdivided) from the total acreage required by the primary zoning district. A residential dwelling unit is prohibited on equivalent land area.

**Essential Services**

Underground or overhead gas, electrical, communication, steam or water distribution systems owned or operated by public or private utilities or governmental agencies or commissions, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, substations, telephone booths and accessories in connection therewith, but not including buildings.

**Expansion**

Enlargement or intensification; means any increase in a dimension, size, area, volume or height, any increase in the area of use, any placement of a structure or part thereof where none existed before.

**Expansion, Animal Feedlot**

A change to an Animal feedlot which results in an increase in the maximum number of animal units of the facility.

**Exterior Storage**

The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed in a building.

**Extractive Use**

The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, nonmetallic minerals and peat not regulated under *Minnesota Statutes, sections 93.44 to 93.51; or successor statutes.*

**FAA**

Federal Aviation Administration.

**Family**

An individual, or two or more persons, each related by blood, marriage, adoption, foster care arrangement or court order, living together as a single housekeeping unit or a group of not more than six persons not related, maintaining a common household, exclusive of servants.

**Family Day Care**

Shall have the meaning given in *Minnesota Rules, part 9502.0315, subpart 11; or successor rules.*

**Farm Winery**

Farm winery shall have the meaning given in *Minnesota Statutes, chapter 340A.101 Subd.11; or successor statutes.*

**Financial Institutions**

An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies, such as banks, savings and loans or credit unions.

**Flood**

A temporary increase in the flow or stage of a stream or in the state 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 state 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” as used in the Flood Insurance Study for Stearns County.

**Flood Plain**

Shall have the meaning given in *Minnesota Statutes, section 103F.111, subdivision 4; or successor statutes.*

**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 damage.

**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.

**Food Processing**

The preparation, processing, canning and/or packaging of food products for wholesale distribution or sale.

**Forestland Conversion**

The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

**Forestry**

Means the use and management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings and fences.

**Funeral Home**

A building, or part thereof, used for funeral services and activities. Such buildings may contain space and facilities for embalming, crematoria, the storage of caskets, urns and other related funeral supplies, funeral vehicles and a funeral chapel.

**Gasoline Stations**

Any building, land area or other premises used for the retail dispensing or sales of vehicular fuels.

**General Manufacturing**

To bring something into being by forming, shaping, combining or altering materials.

**Ghost Plat**

A subdivision or resubdivision concept plan illustrating possible future urban density lot layout, street networks and utility systems for proposed rural subdivisions, demonstrating how the existing and proposed rural development can be efficiently resubdivided upon annexation by a city and provided with urban services.

**Golf Courses**

A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards and that may include a clubhouse and shelter.

**Government Buildings**

A building or structure owned, operated or occupied by a governmental agency to provide a governmental service to the public.

**Greenhouse**

An enclosure used for the cultivation or protection of plants.

**Greenhouse and Nursery Sales**

The retail handling and sale of any article, substance or commodity related to the planting, maintenance or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals or other nursery goods and related products in small quantities to the consumer.

**Grocery Stores**

Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption.

**Gross Floor Area**

The sum of the areas of several floors of a building as measured from the exterior faces of the walls.

**Group Family Day Care**

Shall have the meaning given in *Minnesota Rules, part 9502.0315, subpart 13; or successor rules.*

**Guest Cottage**

A structure containing sleeping spaces. A guest cottage may also contain a kitchen and/or bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**Hard Surfaced**

A surface that is improved and maintained with an asphalt or portland cement binder material or such other surface as may be approved by the County, to provide a durable and dust free surface.

**Health Club**

An establishment that provides facilities for aerobic exercises, running and jogging, weight lifting equipment, game courts, swimming facilities, saunas, showers, massage rooms and lockers.

**Height of Building**

The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or height of the top of the highest gable of a pitched or hipped roof.

**Home Extended Business**

An occupation or profession engaged in by the occupant of a dwelling unit within said unit or accessory structure which involves the storage of a limited amount of vehicles and equipment; repair; service or assembly requiring equipment other than customarily found in a home; or the storage of stock in trade incidental to the performance of a service. A home extended business shall be clearly incidental and secondary to the residential use of the premises, and shall only include the sale of merchandise incidental to the home extended business.

**Home Occupation**

Any occupation or profession engaged in by the occupant of a dwelling which is clearly secondary to the principal use when carried on within the dwelling unit, and not in any accessory building, and which shows no activity other than activity normally present in a residential dwelling unit.

**Hotels/Motels**

Shall have the meaning given in *Minnesota Statutes, section 157.15, subdivision 7; or successor statutes.*

**Hunting Clubs and Shooting Preserves**

Areas reserved for public or private hunting of wildlife, and accessory structures in support of those activities, including shooting preserves as identified in *Minnesota Statutes section 87A.01; or successor statutes.*

**Impervious Surface**

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. Impervious surfaces include compacted sand, lime rock, clay, most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

**Improvement**

Making a non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion or enlargement.

**Incorporated**

Manure which is surface applied and mechanically incorporated within twenty-four (24) hours of application.

**Industrial Solid Waste**

Industrial solid waste means all solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, municipal solid waste combustor ash or household refuse.

**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**

Manure which is mechanically injected or tilled into the soil during the manure application process.

**Intensive Vegetation Clearing**

The complete removal of trees or shrubs in a contiguous patch, strip, row or block or the removal of greater than twenty-five percent (25%) of the trees 5" diameter breast height (DBH) and/or twenty-five percent (25%) of the trees/shrubs less than 5" DBH.

**Interim Permit**

Shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 13; or successor rules.*

**Interim Use**

A use that is allowed for a limited period of time, subject to the conditions set forth in this Ordinance.

**Interim Use Permit**

A permit that allows a use that is neither a permitted, provisional or conditional use, for a limited period of time subject to conditions set forth in this Ordinance.

**In-Vessel Composting Facility**

The controlled biological process of the decomposition of animal mortalities into a humus rich product which takes place inside a fully-enclosed structure, container or vessel and which can be used beneficially as a soil amendment or in erosion control techniques.

**Irrigation**

For purposes of manure management, irrigation is the aerial application of liquid manure through the use of pumps, hoses and nozzles beyond a fifty (50) foot radius.

**Island**

A tract of tracts of land surrounded by water and lying within a public water as identified in *Section 10.2.3 of this ordinance*.

**Junk and Salvage Operation**

A place where waste, stored or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk and salvage operation includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.

**Kennel – Commercial, Boarding**

A commercial boarding kennel is a commercial activity where animals are brought to the facility by their owner and boarded away from their owner for limited periods of time. Animals in boarding kennels are kept separated and do not engage in breeding activities. Animals in boarding kennels are not held out for sale.

**Kennel – Commercial, Breeding**

A commercial breeding kennel is a commercial activity where (4) or more dogs and/or domestic pets over six (6) months of age are kept for breeding purposes, engage in breeding activities and birthing, and where resulting young are raised for sale and sold.

**Kennel, Private**

Any place where four (4) or more dogs and/or domestic pets over six (6) months of age are owned by any member of the household for private enjoyment. Private kennels are an accessory to the principal use of the property.

**Land Evaluation Site Assessment (LESA)**

A numeric rating system or tool found in *Appendix A of this Ordinance* and used for determining the suitability of land for conversion from agricultural uses to other uses.

**Laundromats**

An establishment providing washing, drying or dry-cleaning machines on the premises for rental use to the general public.

**Light Manufacturing**

The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products. Such uses include, but are not limited to, the following: lumber yards, machine shops, products assembly, sheet metal shops, plastics, electronic, motor vehicle repair, body work shops, painting contractor shops and storage yards.

**Limited Agriculture**

Land whose use is for the production of horticulture or nursery stock, fruit of all kinds, vegetables, forage, grains, bees and apiary products. This activity does not need to be the principal source of income.

**Limited Rural Business**

A home extended business, employing up to a maximum of four persons who work at the premises and are not family members residing on the premises.

**Limited Rural Manufacturing**

A business engaged in light manufacturing, with the manufacturing wholly contained within a building(s), employing up to a maximum of 10 persons who work at the premises.

**Liquid Manure**

Animal manure that is handled, stored or applied using methods conventionally considered applicable to liquid material and manure which flows or cannot be effectively stacked or handled with a loader.

**Lot, Parcel or Tract**

An area of land designated by metes and bounds, registered land survey, plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, transfer or separation thereof. For the purpose of this Ordinance, a lot, parcel or tract shall be considered to be an individual building site that shall be occupied by no more than one single family dwelling unit.

**Lot Area**

The lot area is the land area contained within the lot lines.

**Lot Coverage**

Determined by dividing that area of a lot that is covered by impervious surface or roofed areas by the gross area of that lot.

**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 lines shall be known as right-of-way line, and when a lot line abuts on an alley, it shall be known as an alley line.

**Lot, Parcel or Tract of Record**

Any lot, parcel or tract that was recorded by deed or filed as a separate parcel in the office of the County Recorder on or before the effective date of this Ordinance, unless otherwise established in this Ordinance.

**Lot Width**

The shortest distance between lot lines measured at the midpoint of the building line.

**Lowest Floor**

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

**Maintenance**

Normal upkeep of a structure including the replacement of windows, doors, siding, external roof surfaces or exterior finish, such as paint or stain.

**Manufactured Home**

Manufactured home shall have the meaning given in *Minnesota Statutes, section 327.31, subdivision 6; or successor statutes*.

**Manufactured Home (as it pertains to Section 10.1 of this Ordinance)**

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.

**Manufactured (Mobile) Home, Pre-Code**

Manufactured homes built prior to *HUD CFR 3280 Standards*, effective June 15, 1976, or built prior to Minnesota inspection and certification requirements in accordance with *ANSI Standards A119.1, July 1, 1972; or successor standards*.

**Manure Storage Area, Structure or Facility**

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 so that a pollution hazard is not created or maintained are not manure storage areas. In-vessel mortality composters are not considered manure storage areas.

**Market Value**

The value of any structure determined by the current records of the Stearns County Assessor for the year in which the damage was done.



**Meteorological Towers**

Those towers of a predominantly temporary nature which are erected primarily to measure wind speed and direction and other data relevant to siting wind energy conversion systems. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation or other similar applications for the purpose of monitoring weather conditions.

**Metes and Bounds**

A method of property description by means of utilizing the direction and distance from an easily identifiable point.

**Micro-WECS**

Micro-WECS are WECS of 1kw nameplate generating capacity or less and utilizing supporting towers of forty (40) feet or less.

**Mining Operation**

The removal of stone, sand and gravel, coal, salt, iron, copper, nickel, petroleum or other materials from the land for commercial, industrial or governmental purposes.

**Modification, Animal Feedlot**

Means a change in manure handling facilities, livestock type or operation of an animal feedlot that does not result in an increase in the number of animal units of the facility. Modification may include new construction; new construction which is physically attached to an existing facility; or the remodeling of existing facilities that does not result in an increase in animal units at the facility that is part of the existing animal feedlot.

**Monasteries or Convents**

A place of residence for bona fide members of a religious order who carry on religious, medical, educational or charitable work in adjacent institutions.

**Motor Vehicle Repair Facility**

Major or general repair, rebuilding or reconditioning of engines or other motor vehicle parts including body work, frame work, welding and painting services.

**MPCA**

Minnesota Pollution Control Agency.

**Multi-family Residential Dwellings**

A building containing more than four (4) dwelling units, including units that are located one over the other.

**NPDES Permit**

National Pollutant Discharge Elimination System Permit shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 16; or successor rules.*

**NRCS**

Natural Resources Conservation Service.

**Non-Commercial Speech**

Dissemination of messages not classified as commercial speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

**Non-Conforming Use**

Any legal use already in existence 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 the use was established.

**Nonconformity**

Nonconformity shall have the meaning given in *Minnesota Statutes, section 394.22, subdivision 8; or successor statutes.*

**Non-residential Program**

Shall have the meaning given in *Minnesota Statutes, section 245A.02, subdivision 10; or successor statutes.*

**Nursery**

An area where plants are grown for transplanting, for use as stocks for budding or grafting.

**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 flood plain 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.

**Odor Reducing Technologies**

Technologies that will reduce odor emissions from a feedlot. Examples include biofilters, synthetic covers, natural crusts, pit additives, non-thermal plasma reactors, feed additives or total confinement.

**Offices**

A room or group of rooms used for conducting the clerical or professional affairs of a business, profession, service, industry or government.

**Offices, Clinics**

A medical establishment where patients are admitted for examination and treatment on an outpatient basis.

**Open Space**

Land used for agriculture, natural habitat, pedestrian corridors and/or recreational purposes, that is undivided and permanently protected from future development.

**Ordinary High Water Level or "OHWL"**

Ordinary high water level shall have the meaning give in *Minnesota Statutes, section 103G.005, subdivision 14; or successor statutes.*

**Other Educational/Ecclesiastical Use**

Use of land or a building or buildings as, or for, an institution not for profit but for the establishment and maintenance of a public or private college, secondary or elementary school or other educational institution for the academic instruction and cultivation of the mind.

**Outdoor Display, Accessory**

An outdoor arrangement of objects, items, products or other materials typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product or service.

**Outdoor Recreational Facility**

A facility in which athletic activities such as softball, soccer and baseball would be played, and uses oriented to utilizing the outdoor character of an area including hiking and biking trails and interpretive areas.

**Outdoor Sales Lots**

Placement of cars, trucks, trailers, farm equipment and other vehicles for the purpose of selling the vehicles on the lot.

**Outdoor Sales Lots, Accessory to Motor Vehicle repair**

Placement of cars, trucks, trailers, farm equipment and other vehicles for the purpose of selling said vehicles, accessory to motor vehicle repair in agricultural areas.

**Outdoor Storage, Accessory**

A storage area accessory to limited rural, agriculturally-oriented, commercial or industrial business.

**Overlay District**

A zoning district that lies on a defined geographic area that is also encompassed within one or more zoning districts. The overlay is usually defined to encompass a natural or human-made feature, such as shoreland, floodplain or airport safety zone and to set land use and development standards specific to the feature.

**Owner, Feedlot**

Feedlot Owner shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 17; or successor rules.*

**Park Trailer**

A trailer that:

- A. Exceeds 8.5 feet in width in travel mode but is not larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width;

- B. Is used as temporary living quarters; and
- C. A park model shall have the same meaning as a park trailer.

**Pasture**

- A. Areas, including winter feeding areas as part of a grazing area, where grass or other growing plants are used for grazing and where the concentration of animals allows a vegetative cover to be maintained during the growing season, except that vegetative cover is not required:
  - (1) in the immediate vicinity of supplemental feeding and water devices;
  - (2) in associated corrals and chutes where livestock are gathered for the purposes of sorting, providing veterinary services, loading and unloading trucks and trailers, and other necessary activities related to good animal husbandry practices; or
  - (3) in associated livestock access lanes used to convey livestock to and from areas of the pasture; or
- B. Agricultural land:
  - (1) where livestock are allowed to forage during the winter;
  - (2) that is used for cropping purposes in the growing season; and
  - (3) where the concentration of animals is such that a vegetative cover, whether grass, growing plants, or crops, is maintained during the growing season, except in the immediate vicinity of temporary supplemental feeding or watering devices.

**Patio**

An open recreation area that is often paved and within one foot of pre-existing or natural grade. A patio may not have attached railings, trellises, seats or other features that extend more than one foot above pre-existing or natural grade.

**Permitted Use**

A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.

**Persons**

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

**Planned Unit Development**

A method of land use or 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 which incorporates clustering of these units or sites to provide areas of common open space and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, shared-interest communities, apartment buildings, non-resort campgrounds, youth camps, recreational vehicle parks, manufactured home parks, hotels, motels or any combination of

these. Planned unit developments shall also include any conversion of pre-existing structures and land uses in order to utilize this method of development.

**Portable Livestock Hutch**

A structure that is used to house livestock species in temporary locations for the purpose of providing shelter from the elements. A portable livestock hutch is a structure that may be constructed of sheet metal, molded plastic or wood, is not attached to a permanent foundation, is on skids and is less than 433 square feet in size.

**Post-Development**

Conditions that may reasonably be expected or anticipated to exist after completion of the land development activity on a specific site or property.

**Potential Pollution Hazard**

Shall have the meaning given in *Minnesota Rules, part 7020.0300, subpart 20; or successor rules.*

**Pre-Development**

Conditions that exist at the time that plans for the land development activity are submitted. Where phased development or plan approval occurs, the existing land use at the time the first item is submitted shall establish predevelopment conditions.

**Principal Use or Structure**

All uses or structures that are not accessory uses or structures.

**Private Road or Driveway**

Private road or driveway means every way or place in private ownership which is used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other parties.

**Provisional Use**

A use that is permitted subject to applicable performance standards.

**Public Parks, Trails and Playgrounds**

A land use designed principally to offer recreation, passive or active, to the public.

**Public Roads**

Any vehicular way which is an existing federal, state, county or township roadway; is shown upon a plat approved pursuant to law as dedicated to public use; or is dedicated to public use.

**Public Waters**

Public waters shall have the meaning given in *Minnesota Statutes, section 103G.005, subdivision 15a; or successor statutes.*

**Public Waters Wetlands**

Shall have the meaning given in *Minnesota Statutes, section 103G.005, subdivision 15a; or successor statutes.*

**Putrescible Material**

Solid waste that is capable of becoming rotten or which may reach a foul state of decay or decomposition.

**Quarrying**

The process of removing or extracting rock, or similar materials from an open excavation for financial gain.

**RA (Registered After)**

An animal feedlot or manure storage area registered after January 1, 2002:

- A. Constructed, established or operational at a site where no animal feedlot or manure storage area existed previously;
- B. That has not had at least ten (10) animal units at some time within any five (5) year period, except as provided in *Section 5.1.1 D of this Ordinance or Minnesota Statutes, section 116.0711; or successor statutes;*
- C. Shall include animal feedlots that did not register by January 1, 2002 but were operational on that date, except as provided in *Section 5.1.4 of this Ordinance.*

**RB (Registered Before)**

An animal feedlot or manure storage area, as defined by *Section 3 of this Ordinance*, that was operational on January 1, 2002 including permitted modifications or expansions since January 1, 2002 and has maintained registration per *Section 6.7.2 of this Ordinance.*

**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.

**Recreational Camping Area**

Recreational camping area shall have the meaning given in *Minnesota Statutes, section 327.14, subdivision 8; or successor statutes.*

**Recreational Camping Vehicle**

A recreational vehicle. Recreational camping vehicle or recreational vehicle shall have the meaning given in *Minnesota Statutes, Section 327.14, subdivision 7; or successor statutes.* A travel trailer shall have the same meaning as a recreational camping vehicle.

**Recreational Playground Equipment**

Play apparatus such as a swing set and slide, sandbox, poles for nets, picnic table, lawn chair, barbecue stand and similar apparatus.

**Recreation Use Area**

The area allowed within the shore impact zone for residential lots, conservation subdivisions, planned unit developments and new resorts.

**Recreational Vehicle (as it pertains to *Section 10.1 of this Ordinance*)**

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 shall be synonymous with the term travel trailer/travel vehicle.

**Recreational Vehicle Parks**

A business on any lot or parcel of land upon which two (2) or more recreational vehicle sites are available for rent and are maintained for temporary occupancy.

**Recycling Center**

A facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use.

**Redevelopment**

The reconstruction or modification to any existing, previously developed land. Redevelopment is distinguished from new development in that new development refers to construction on land where there had not been previous construction.

**Refuse**

Refuse means putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings and market and industrial solid waste and municipal treatment wastes which do not contain free moisture.

**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.

**Replacement**

Reconstruction or restoration; means construction that exactly matches pre-existing conditions.

**Residential Dwelling Unit**

A residential accommodation which may include sleeping, kitchen or bathroom facilities, and which is arranged, designed, used or intended for use as living quarters at any time. A residential dwelling unit is a structure.

**Residential Planned Unit Development**

Residential Planned Unit Development means a use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented.

**Residential Program**

Shall have the meaning given in *Minnesota Statutes, section 245A.02, subdivision 14; or successor statutes.*

**Resort**

A commercial establishment that includes buildings, campgrounds, lodges, structures, dwelling units/sites, enclosures or any part thereof kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one (1) day, one (1) week, or longer, and having for rent one (1) or more cabins, rooms, campsites or enclosures. These establishments must be primarily service-oriented for transient lodging of guests. All cabins, rooms, dwelling units/sites or enclosures must be included in the resort rental business. Resorts allow no residential use of a dwelling unit/site for more than thirty (30) days within a calendar year, except dwellings used as residences for the service providers or dwelling units/sites for renters. In order to qualify as a resort pursuant to this definition, a resort shall also be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

**Retail**

The selling of goods, wares or merchandise directly to the ultimate consumer or persons without a resale license.

**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 of a WECS.

**Rubbish**

Rubbish means nonputrescible solid waste consisting of both combustible and non-combustible wastes, including ashes, cardboard, tin cans, yard waste, wood, glass, crockery, bedding or litter of any kind.

**SWCD**

The Stearns County Soil and Water Conservation District.

**Salvage or Repairable Vehicle**

A vehicle for repair, reconstruction or used as a parts source to repair other vehicles, consisting of all integral and body parts of a vehicle of a type for which a certificate of title or registration is required.

**Scenic View**



A predominantly natural or rural landscape as viewed from a public place or right-of-way. Scenic views can incorporate buildings and structures that are allowed within the zoning district in which the viewshed lies, but buildings and structures are not the predominant viewshed element.

**Scenic View, shoreland**

A predominantly natural shoreland or lake landscape as viewed from a public place or public waterbody. Scenic views can incorporate buildings and structures typical for shoreland areas, but buildings and structures are not the predominant viewshed element.

**School**

Public school as defined under *Minnesota Statutes, section 120A.05; or successor statutes*, or a private school excluding home school sites, in a building designed, constructed or used for education or instruction.

**Seasonal Produce Sales Stands**

A detached accessory structure used seasonally from which agricultural products are sold.

**Selective Cutting**

The removal of individual or small groups of trees or shrubs.

**Seminaries**

An educational institution where people engage in theological studies and spiritual development in preparation for ordained ministry.

**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 Facility**

A facility or business that is service oriented such as a bank, barbershop, beauty salon or laundry.

**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.

**Shared-Interest Community**

Real estate that is subject to an instrument which obligates persons owning a separately described parcel of the real estate and occupying a part of the real estate pursuant to a proprietary lease or covenant for residential use for more than thirty (30) days within a year, by reason of their ownership or occupancy, to pay for real estate taxes levied against, insurance premiums payable with respect to, maintenance of, or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

**Shore Impact Zone**

The land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the required structure setback for the applicable lake or river classification, except for lakes classified as General Development, which shall have a shore impact zone of fifty (50) feet.

**Shoreland**

Shall have the meaning given in *Minnesota rules, part 6120.2500, subpart 15; or successor rules.*

**Sign**

A structure or device displayed for informational or communicative purposes which is visible to members of the public who are not on the premises on which the structure or device is located.

**Sign, Government**

A sign that is required, erected or maintained by a governmental unit or for the purpose of providing a safety warning about a public utility.

**Sign, Off-premise (Billboard)**

A sign advertising a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where such sign is located.

**Sign, Temporary**

A sign displayed concurrent with a specific event or occurrence for a limited duration, after which the sign must be removed.

**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, section 307.08; or successor statutes.* 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.

**Single Family Dwelling Unit**

A residential building containing one residential dwelling unit.

**Ski Areas and Lodges**

An area developed for snow skiing, with trails and lifts, including ski rentals and sales, instruction and eating facilities.

**Solar Energy System**

A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy of transferring heat from a collector to another medium using mechanical, electrical or chemical means

**Solar Energy Systems – Accessory**

A solar panel or array mounted on a building, pole or rack which is directly connected to 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 not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity. Solar farms include but are not limited to community solar gardens which are defined as a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar system may be either an accessory or a principal use.

**Solid Manure**

Animal manure that does not flow and which can be effectively stacked or handled using a loader equipped with forks. This shall not include frozen liquid manure.

**Solid Waste**

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under *Section 402 of the Federal Water Pollution Control Act, as amended*, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by *The Atomic Energy Act of 1954, as amended*.

**Solid Waste Composting Facility**

A site used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste and residuals resulting from the composting process.

**Solid Waste Management Facility**

Solid waste management facility means a facility for the collection, transportation, processing or reuse, conversion or disposal of solid waste. As it pertains to this Ordinance, facility means the land, structures, monitoring devices and other improvements on the land used for monitoring, treating, processing, storing or disposing of solid waste, leachate or residuals from solid waste processing.

**Solid Waste Storage**

Solid waste storage means the holding of solid waste in quantities of ten (10) or more cubic yards for more than forty eight (48) hours.

**Solid Waste Transfer**

Solid waste transfer means a process or facility in which solid waste from collection vehicles is compacted or rearranged for subsequent transport to another location.

**Solid Waste Transfer Stations**

Solid waste transfer means a process or facility in which solid waste from collection vehicles is compacted or rearranged for subsequent transport to another location.

**State Feedlot Permit**

A construction short-form permit, an interim permit, a state disposal system permit, a national pollution discharge elimination system permit or any other permit developed or issued by the State to regulate feedlots.

**Steep Slope**

Steep slopes are lands having average slopes of twelve (12) percent or greater, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

**Storage Building – Accessory, Residential Manufactured Home District (RMH)**

A building within a manufactured home park that is used for storage uses only.

**Storage Facilities, Accessory to Agricultural Use**

Structures or buildings in agricultural areas used for long or short-term locked storage of residential goods not for sale or display.

**String Line Method**

A method of determining the building line where a string connects both corners of adjacent dwelling units:

- A. For new dwelling units, the string connects the waterward corner of the adjacent dwelling units on both sides of the proposed dwelling unit.
- B. For additions to existing dwelling units, the string connects the waterward corner of the adjacent dwelling unit with the waterward corner of that side of the dwelling unit to which the addition is being attached.

The building line determined under Either A. or B. above becomes the established building line and structures shall not extend waterward of the established building line.

In instances when an adjacent principal structure is located partly or wholly within the shore impact zone, that point where the landward extension of the shore impact zone intersects the property line shall be used as the point of reference to determine the established building line rather than the dwelling unit.

**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 and fences.

**Structure (as it pertains to *Section 10.1 of this Ordinance*)**

Anything constructed or erected on the ground or attached to the ground or on site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 10.1.14B of this Ordinance and other similar items.

**Structural Alteration**

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

**Subdivision**

Improved or unimproved land which is divided for the purpose of sale, transfer, rent or lease, into two (2) or more lots or parcels including planned unit developments.

**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.

**Substantial Improvements:**

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.
- (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

**Subsurface Sewage Treatment System, or SSTS**

A subsurface sewage treatment system shall have the meaning give in *Minnesota Rules, part 7080.1100, subpart 82; or successor rules.*

**Suitable Area**

Suitable area is the area remaining on a lot or parcel of land after bluffs, areas with slopes greater than twenty five percent (25%), all easements and rights-of-way, historic sites,

wetlands, land below the ordinary high water level, and all setback requirements, except the ordinary high water level structure setback, are subtracted.

**Surface, Sign**

A face of a sign upon, against, or through which the message of the sign is displayed.

**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 conduct of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

**Swimming Pools – Public**

A swimming pool to which the general public has access.

**Temporary Uses/Special Events**

An occasion or event limited in duration that complies with the regulation of the zoning district.

**Temporary Use Site**

Extra camping sites at a camping area in excess of the permitted permanent sites, as allowed on a temporary basis under this Ordinance.

**Theatres/Amusement Parks**

A facility devoted to showing motion pictures or for dramatic, dance, musical or other live performances or for various types of entertainment, including rides and booths for the conduct of games or sale of items.

**Tillable Farmland**

Land that meets one or more of the following criteria:

- A. Land planted to a crop to be carried through to harvest; or
- B. Land which is currently being tilled to produce a crop for harvest; or
- C. Land which is not currently tilled, but has been tilled at any time since 1985; or
- D. Land enrolled in the Conservation Reserve Program (CRP), Reinvest in Minnesota (RIM), Conservation Reserve Enhancement Program (CREP); or successor programs.

**Toe of the Bluff**

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

**Truck Terminal, Large**

A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck, for more than five (5) trucks per day.

**Truck Terminal, Small**

A facility for the receipt, transfer, short-term storage and dispatching of goods transported by truck, for no more than five (5) trucks per day.

**Transmission Equipment**

Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

**Transmission Line**

Those electrical power lines that carry voltages of at least 69,000 volts (69KV) and which are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

**Unclassified Road**

A road that is not defined as a principal arterial, minor arterial, major collector or minor collector road according to the functional classification system in the *Stearns County Transportation Plan*; or *successor plan*.

**Unincorporated Area**

The area outside a city.

**Use**

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

**Vacation/Private Home Rental**

A single family dwelling and/or related structure that is rented out on a transient basis for a charge. A transient basis shall be any period of time less than thirty (30) consecutive days.

**Variance**

Shall have the meaning given in *Minnesota Statutes, section 394.22, subdivision 10*; or *successor statutes*.

**Veterinary Clinics**

A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**Warehousing and Distribution Facilities**

An establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle.

**Wastewater Treatment Facilities**

The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes.

**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 utility storage buildings, gazebos, screen houses, fish houses, pump houses and detached decks.

**Watershed Management or Flood Control Structure**

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 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 the Department of Natural Resources.

**Wellhead Protection Plan**

A plan developed for the protection of a public water supply.

**Wetland**

Wetland shall have the meaning given in *Minnesota Rules, part 8420.0110, subpart 52; or successor rules*.

**Wholesale and Storage Establishments**

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users or to other wholesalers.

**Wind Energy Conversion System (WECS)**

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

**Wind Turbine**

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.



**Wood Products – Manufacturer**

A facility manufacturing products from wood for sale in the wholesale or retail market, such as a cabinet shop.

**Yard**

The open space on an occupied lot that is not covered by a structure.

**Yard, Front**

A yard extending across the front of the lot between the side yard lines and lying between the right-of-way line of the road or highway and the nearest line of the building.

**Yard, Rear**

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

**Yard, Side**

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

**Yard Waste**

Yard waste means garden waste, leaves, lawn cuttings, weeds and tree or shrub prunings generated at residential or commercial properties.

**Yard Waste Facility**

Yard waste facility means a site used to compost or dispose of yard waste including all structures, processing equipment, drainage control systems, collection areas, storage areas and processing areas for incoming yard waste or any subsequent product thereof.

**Yield plan**

An estimate of the maximum number of residential dwelling sites that could be located on a parcel or development site based on the minimum allowed number of acres for housing sites in the zoning district. The yield plan divides the amount of land on the parcel that remains after subtracting out protected resources and conservation areas by the minimum number of acres per dwelling site, which will likely result in a greater or smaller number of sites than the allowed density for the zoning district.

**Youth camp**

Shall have the meaning given it in *Stearns County Ordinance Number 205 or successor ordinance*.



## **SECTION 4        ADMINISTRATION**

### **4.1    Authority for Administration**

This Ordinance shall be administered pursuant to *Minnesota Statutes, chapter 394; or successor statutes*.

### **4.2    Administrator**

#### **4.2.1    Environmental Services Department**

The Environmental Services Department and its Director shall administer the provisions of this Ordinance.

#### **4.2.2    Powers and Duties**

The Director shall have the following powers and duties and may delegate them to Department staff as necessary:

- A. To receive and review applications for permits and issue permits if such permit applications are in full compliance with the provisions of this Ordinance.
- B. To receive and review applications for action by the Board of Adjustment and/or Planning Commission and to provide additional information, recommendations, data, and testimony as may be necessary for action to be taken.
- C. To conduct compliance and other inspections. If violations of this Ordinance are discovered, the Director shall notify the violator(s) and take such other steps as are necessary to ensure compliance with this Ordinance, including issuing Stop Work Orders and Abatement Orders.
- D. To maintain records of all actions taken pursuant to the provision of this Ordinance.
- E. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.

### **4.3    Board of Adjustment**

The Stearns County Board of Adjustment, as presently established in *Stearns County Ordinance Number 208; or successor ordinances*, shall have the following powers:

- A. To order the issuance or denial of variances for the provisions of this Ordinance.
- B. To hear and decide appeals from and review any order, requirement, decision or determination made by the Director with respect to the administration of this Ordinance.
- C. To hear appeals from the Director's determination of the exact location of a zoning district boundary line.

### **4.4    Planning Commission**

The Stearns County Planning Commission "Planning Commission", as presently established in *Stearns County Ordinance Number 436; or successor ordinances*, shall have the following duties:

- A. Conduct public hearings for Conditional Use Permits, Interim Use Permits and zoning district boundary changes and recommend their approval or denial to the County Board of Commissioners.
- B. Review and recommend to the Board, all amendments to this Ordinance, including zoning district boundary changes.

**4.5 This section has been deleted by Ordinance #499 on May 7, 2014**

**4.6 Feedlot Review Committee**

A Feedlot Review Committee is hereby established and shall be appointed by the Board. The Feedlot Review Committee will review potential feedlot enforcement cases, which may be reviewed by the County Attorney, and make recommendations to the Department. The Feedlot Review Committee shall review applications for Conditional Use Permits relating to animal feedlots and shall make recommendations to the Planning Commission based on the criteria for granting a conditional use permit pursuant to *Section 4.8 of this Ordinance*. Additionally, the Public Works Director shall review all permit applications to ensure that road and access issues are addressed. The members of the Feedlot Review Committee shall consist of one person from each of the following:

- A. Environmental Services Department; and
- B. Soil and Water Conservation District; and
- C. County Resident; and
- D. An Agricultural Producer; and
- E. Agricultural Banking/Lending Industry; and
- F. Minnesota Extension Service; and
- G. A Township Officer Representative appointed by the Township Officer's Association; and
- H. A representative appointed by the Stearns County Municipal League.

**4.7 Appeals**

An appeal from any decision of the Director may be requested by any aggrieved party in accordance with *Section 7, Stearns County Ordinance Number 208; or successor ordinances*. The appeal shall be in writing and signed by the appellant and include the following information:

- A. The particular order, requirement, decision or determination from which the appeal is requested.
- B. The name and address of the appellant.
- C. The grounds for the appeal.
- D. The relief requested by the appellant.

**4.8 Conditional Use**

The Board recognizes that certain uses, while generally not suitable in a particular zoning district, may under some circumstances be allowed if conditions are attached. When such circumstances exist, a conditional use permit may be granted and appropriate conditions attached. A conditional use permit shall be required in the following instances:

- A. Proposed Uses. Only those uses listed as conditional uses within the applicable primary district or overlay district may be allowed through issuance of a conditional use permit.

- B. Existing Uses. All uses existing at the time of adoption of this Ordinance that now require a conditional use permit may continue subject to the performance standards contained in *Section 6 of this Ordinance* and the general development standards contained in *Section 7 of this Ordinance*. Any enlargement, structural alteration, modification, addition or intensification of the use shall require a conditional use permit and the use shall be subject to the criteria and procedures for issuance of a conditional use permit set forth in *Section 4.8 of this Ordinance*, except as allowed in *Section 6.7 of this Ordinance*.

#### **4.8.1 Application for Conditional Use Permit**

- A. An application for a conditional use permit shall be signed and in writing on forms provided by the Department. In instances where the request is for a conditional use permit for an animal feedlot, the following additional information shall be provided:
  - (1) Completion of the Stearns County Permit Application for an Animal Feedlot or Manure Storage Area;
  - (2) A site sketch completed on either a map or aerial photograph showing the proposed animal feedlot and manure storage facility location in relation to any of the applicable setbacks established in *Section 6.7.9 D of this Ordinance*;
  - (3) Soil and hydrogeological conditions at the proposed animal feedlot site, including soil type, depth to water table and depth to bedrock;
  - (4) A copy of the deed or abstract for the property on which the conditional use permit is proposed, that lists the current property owners and the comprehensive legal description of the property;
  - (5) Applications for conditional use permits will only be accepted from the owner of the property for which the application is made; and
  - (6) A manure management plan as required in *Section 6.7.9 C of this Ordinance*.
- B. Procedures to be followed by the County in Considering Conditional Use Permit Applications Within the Floodplain Overlay District.
  - (1) The applicant shall furnish the following information and additional information as deemed necessary by the Department 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; and
    - 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 Planning Commission and Board shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

#### **4.8.2 Criteria for Considering Conditional Use Permits**

The Board may grant a conditional use permit, provided the proposed use is listed as a conditional use for the district, or as needing a conditional use permit in general or performance standards, and upon a showing by the applicant that the requirements and standards of this Ordinance or any other applicable ordinance, rule or statute will be met, the use conforms to the comprehensive plan and is compatible with the existing neighborhood. In determining whether the proposed use is in harmony with the general purpose and intent of this Ordinance and the Comprehensive Plan, the Planning Commission and Board shall consider, but not be limited to, the following:

- A. The effect of the proposed use on the Comprehensive Plan including but not limited to, consistency with the relevant Comprehensive Plan Policy Area; and
- B. The ability of the proposed use to meet the standards of this Ordinance or any applicable ordinance, rule or statute; and
- C. The ability of the use to be compatible or separated by distance or screening from adjacent land; and
- D. The effect of the proposed use on groundwater, surface water and air quality; and
- E. The effect of the proposed use on property values and scenic views in the surrounding area; and
- F. The following should be evaluated when the Planning Commission and Board considers a conditional use permit for a shoreland alteration:
  - (1) The compatibility of the proposed alteration with adjacent land uses;
  - (2) The effect on fish and wildlife habitat;
  - (3) The effect of the proposal on scenic views as viewed from the waterbody or public place.
- G. Whether the proposed use is allowed with a conditional use permit in the applicable zoning district in which the property is located; and
- H. The effect that the proposed use will have on existing parks, schools, roads and other public facilities; and
- I. The general health, safety and welfare of the residents; and
- J. In addition to the above, the following additional criteria shall be evaluated when the Planning Commission and Board considers a conditional use permit for an animal feedlot:
  - (1) The effectiveness of the manure management plan;
  - (2) The number and type of animals;
  - (3) The recommendation of Feedlot Review Committee;
  - (4) Prevailing wind direction and topography;
- K. Financial assurance mechanisms to guarantee reclamation or cleanup.
- L. Whether the proposed use is on a working farm and contributes to agricultural operations and practices.

- M. In passing upon conditional use applications in the Floodplain Overlay District, the Planning Commission and Board shall consider all relevant factors specified in other sections of this Ordinance, and:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - (12) Such other factors which are relevant to the purposes of this Ordinance.

#### 4.8.3 Notice of Hearing

Notice of hearing for all applications for conditional use permits shall be given in accordance with *Minnesota Statutes, chapter 394; or successor statutes*.

Additional notice shall be given in the following instances:

- A. **Shoreland Overlay District.** In instances where the affected property is located within the Shoreland Overlay District, a copy of the notice of hearing shall be forwarded to the Department of Natural Resources and postmarked at least ten (10) days before the hearing date.
- B. **Scenic River District.** In instances where the affected property is located within the Scenic River District, a copy of the notice of hearing, together with a copy of the conditional use permit application, shall be received by the Department of Natural Resources at least thirty (30) days prior to the hearing date.
- C. **Township Notice.** Prior to acting on a conditional use permit application, the Director shall submit the application to the Township Board of Supervisors of the Township in which the application is being made. The Township Board of Supervisors may review the application and submit written comments or provide verbal testimony to the Planning Commission at the time of public hearing.

- D. **Floodplain Overlay District.** In instances where the affected property is located within the Floodplain Overlay District, a copy of the notice of hearing shall be submitted by mail to the Commissioner of Department of Natural Resources in advance so that the Commissioner will receive at least ten days notice of the hearing.

#### 4.8.4 Notice and Certification of Final Action

- A. **Findings of Fact.** In conducting a public hearing on a Conditional Use Permit application, the Planning Commission and Board shall make a written finding of fact on each application
- B. **Recording.** After acting on a Conditional Use Permit application, the Board shall forward to the Director the written findings of fact and their order regarding the application. The Director shall then file a certified copy of the Board's order with the Stearns County Recorder. After recording, a copy of the Board's order shall be sent to the Township Board of Supervisors of the Township in which the application was made.
- C. **Shoreland Overlay District.** In instances where the affected property is located within the Shoreland Overlay District, a copy of the final decision granting a conditional use permit shall be sent to the Department of Natural Resources and postmarked within ten (10) days of the final action.
- D. **Scenic River District.** In instances where the affected property is located within the Scenic River District, a copy of the decision shall be forwarded to the Department of Natural Resources within ten (10) days of such action.
- E. **Floodplain Overlay District.** A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

#### 4.8.5 Conditions Attached to Conditional Uses

The Board, upon consideration of the criteria for granting a conditional use permit in *Section 4.8.2 of this Ordinance*, may impose such additional restrictions and conditions that it deems necessary to protect the public interest, including but not limited to, matters relating to appearance, lighting, hours of operation, performance characteristics, resource assessment of the proposed site and requiring performance or surety bonds.

- A. In addition to the above, the Board may impose conditions upon granting a conditional use permit for an animal feedlot which may include, but not be limited to, the following:
  - (1) A limitation on the number and kinds of animals allowed at a site;
  - (2) A limit on the size and location of manure storage structures;
  - (3) A limit on manure application sites and manure application techniques;
  - (4) An increase in required setbacks; and
  - (5) Additional requirements, such as odor controls, that the Board deems necessary to safeguard the health, safety and welfare of residents of Stearns County.
- B. Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission and Board shall attach such conditions to the granting of conditional use permits in the Floodplain Overlay District



as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

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

- C. Upon consideration of the factors listed above, the Planning Commission and Board may, when determined necessary, attach conditions to permits or require actions within the permit process as specified in *Section 4.15 of this Ordinance*. Conditions may include, but are not limited to, the following: requiring setbacks or distance separations, requiring methods for limiting erosion or minimizing stormwater flow into public waters, preserving or restoring vegetation and screening structures by adding appropriate native plantings.

#### **4.8.6 Status of Conditional Use Permit**

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms and conditions designated in connection with such permit and all other applicable provisions of this Ordinance. Except as provided in *Section 4.8.7 of this Ordinance*, conditional use permits shall remain in effect so long as the conditions agreed upon are observed. Nothing in this section shall prevent the Board from enacting this Ordinance or any other ordinance to change the status of conditional uses. Additionally, in instances where the conditional use permit is for the operation of an animal feedlot, the animal feedlot owner shall also maintain sufficient land owned, leased or under written contract, or other contracts suitable to the County for purposes of manure management.

#### **4.8.7 Expiration of Conditional Use Permit**

A conditional use permit shall expire and be considered null and void one (1) year after the Board's final decision to grant the conditional use permit, but two (2) years for an animal feedlot, if no construction has begun or if the use has not been established. For the purposes of this Section, construction shall include the installation of footings, slabs, foundations, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction. One (1) administrative extension of up to one (1) year may be granted by the Director upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request prior to expiration of the conditional use permit.

**4.8.8 Revocation of Conditional Use Permit**

- A. A violation of any condition set forth in a conditional use permit shall be a violation of both the permit and this Ordinance.
- B. Failure to correct a violation within thirty (30) days of written notice from the Director shall be grounds to revoke a conditional use permit through the following procedure:
  - (1) The Director shall give written notice to the permit holder, advising that the conditional use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
  - (2) The Planning Commission shall hold a public hearing in the same manner to that required for a new conditional use permit.
  - (3) Within sixty (60) days of closing the Planning Commission's public hearing, the Board shall revoke the conditional use permit, make a finding that a violation does not exist or modify the conditions of the conditional use permit so that a violation no longer exists. The Director shall give written notice of the Board's decision to the permit holder.

**4.8.9 Reapplication**

No application for the same conditional use permit for a particular use on a particular parcel of land shall be resubmitted for a period of twelve (12) months from the date of the decision of the previous application unless there has been a change in circumstances as it relates to the request.

**4.8.10 Amended Conditional Use Permits**

Amended conditional use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended conditional use permit shall be administered in the same manner as that required for a new conditional use permit.

**4.9 Variances****4.9.1 Right of Application**

- A. An application for variance shall be signed and in writing on forms to be provided by the Department. In instances where the request for variance is from the animal feedlot provisions of *Section 6.7 of this Ordinance*, the following additional information shall be provided:
  - (1) If applicable, completion of the Stearns County Permit Application for an Animal Feedlot or Manure Storage Area; and
  - (2) A site sketch completed on either a map or aerial photograph showing the proposed animal feedlot and manure storage location in relation to any of the applicable setbacks established in *Section 6.7.5 of this Ordinance*; and
  - (3) Soil and hydrogeological conditions at the proposed animal feedlot site, including soil type, depth to water table and depth to bedrock; and

- (4) A copy of the deed or abstract for the property on which the variance is proposed, that lists the current property owners and the comprehensive legal description of the property.
- B. Except as provided in *Section 4.9.6 of this Ordinance*, a variance shall run with the land and remain in effect so long as any condition imposed by the Board of Adjustment is met. Nothing in this section shall prevent the Board from enacting this Ordinance or any other ordinance to change the status of a variance. Additionally, in instances where a variance is granted from the animal feedlot provisions of *Section 6.7 of this Ordinance*, a variance shall remain in effect so long as sufficient land is owned, leased, or under written contract by the animal feedlot owner for the purpose of manure application.
- C. Applications for variances will only be accepted from the owner of the property for which the application is made.
- D. Complete applications for a variance involving a structure, the use of which involves protected expression, shall be processed and a public hearing scheduled within thirty (30) days of their receipt.

#### **4.9.2 Criteria for Considering Variances**

Variances may only be granted in accordance with *Minnesota Statutes, chapter 394; or successor statutes*.

#### **4.9.3 Notice of Hearing**

Notice of hearing for all applications for variance shall be given in accordance with *Minnesota statutes, chapter 394; or successor statutes*. Additional notice shall be given in the following instances:

- A. **Shoreland Overlay District.** In instances where the affected property is located within the Shoreland Overlay District, a copy of the notice of hearing shall be forwarded to the Department of Natural Resources and postmarked at least ten (10) days before the public hearing date.
- B. **Scenic River District.** In instances where the affected property is located within the Scenic River District, a copy of the notice of hearing, together with a description of the requested variance, shall be forwarded to the Department of Natural Resources at least thirty (30) days prior to the hearing date.
- C. **Township Notice.** Prior to acting on a variance application, the Director shall submit the application to the Township Board of Supervisors of the Township in which the application is being made. The Township Board of Supervisors may review the application and submit written comments or provide verbal testimony to the Board of Adjustment at the time of public hearing.
- D. **Floodplain Overlay District.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**4.9.4 Notice and Certification of Final Action**

- A. **Findings of Fact.** In conducting a public hearing on a variance application, the Board of Adjustment shall make a written findings of fact on each application.
- B. **Recording.** After acting on a variance application, the Board of Adjustment shall forward to the Director the written findings of fact and their order regarding the application. The Director shall then file a certified copy of the Board of Adjustment's order with the Stearns County Recorder. After recording, a copy of the Board of Adjustment's order shall be sent to the Township Board of Supervisors of the Township in which the application was made.
- C. **Shoreland Overlay District.** In instances where the affected property is located within the Shoreland Overlay District, a copy of the final decision granting a variance shall be sent to the Department of Natural Resources and postmarked within ten (10) days of the final action.
- D. **Scenic River District.** In instances where the affected property is located within the Scenic River District, the Department of Natural Resources shall be notified within ten (10) days of the final action. Action by the Board of Adjustment shall become final only when the provisions of *Minnesota Rules, part 6105.0230, subpart 3; or successor rules*, have been satisfied.
- E. **Floodplain Overlay District.** In instances where the affected property is located within the Floodplain Overlay District, a copy of the final decision granting a variance shall be forwarded by mail to the Commissioner of the Department of Natural Resources within ten (10) days of the final action.

**4.9.5 Flood Insurance Notice**

Notice regarding the issuance of a variance to construct below the base flood level shall be given in accordance with *Section 10.1.17 of this Ordinance*. No variance shall have the effect of allowing in any district uses prohibited 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. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- A. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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 shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**4.9.6 Expiration of Variance**

A variance shall expire and be considered null and void one (1) year after the Board of Adjustment's final decision to grant the variance if no construction has begun; except, two (2) years will be allowed for a variance involving construction or expansion at an animal feedlot. For the purposes of this Section, construction shall include the installation of footings, slabs, foundations, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction. One (1) administrative extension of up to one (1) year may be granted by the Director upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request is made prior to expiration of the variance.

**4.9.7 Reapplication**

No application for the same variance, as ruled upon by the Board of Adjustment, shall be resubmitted for a period of twelve (12) months from the date of the decision of the previous application unless there has been a change in circumstances as it relates to the request.

**4.9.8 Appeals**

All decisions by the Stearns County 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 Stearns County District Court pursuant to *Minnesota Statutes, section 394.27, subdivision 9; or successor statutes*.

**4.10 Zoning Ordinance Amendments****4.10.1 Criteria**

The Board may adopt amendments to the text of this Ordinance, the primary zoning district maps as adopted by reference in *Section 8.2 of this Ordinance*, Flood Insurance Rate Maps as adopted by reference in *Section 10.1.3 of this Ordinance*, and the Conservation Design Overlay and the Airport Overlay Map as incorporated in *Appendix D of this Ordinance*. Amendments may be adopted to reflect changes in the goals and policies of the County Comprehensive Plan. Any change in this Ordinance or to any zoning map shall be in compliance with the County Comprehensive Plan.

**4.10.2 Procedure**

- A. An amendment to the text of this Ordinance may be initiated by the Board, the Planning Commission or by application of a property owner. An amendment to the zoning map may be initiated by the Board, the Planning Commission or by application of the property owner. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for their review and recommendation.

- B. Before the enactment of any ordinance amending the text of this Ordinance or any zoning map, a public hearing shall be held in the manner provided in *Minnesota Statutes, sections 394.26 and 375.51; or successor statutes.*

#### **4.10.3 Public Hearings**

- A. Public hearings regarding any amendment to the zoning maps shall be held by the Planning Commission. Upon completion of the public hearing, the Planning Commission shall forward the application for final action together with their findings and recommendation of either approval or non-approval to the Board.
- B. Public hearings regarding any amendment to the text of this Ordinance shall be held by the Board.

#### **4.10.4 Application for Change of Text**

An application to change the wording of this Ordinance shall include:

- A. Reason for the requested change;
- B. Statement regarding compatibility with the County Comprehensive Plan;
- C. Text portion of the existing language to be amended; and
- D. Proposed amended text.
- E. Complete applications for a change of text submitted by a property owner of an establishment, the use of which involves protected expression, shall be processed and a public hearing scheduled within ninety (90) days of their receipt.

#### **4.10.5 Application for Change in District Boundary (Rezoning)**

An application to change district boundaries shall include the following:

- A. The name and address of owner/owners;
- B. A specific description of the area proposed to be rezoned;
- C. The present zoning district and the proposed zoning district;
- D. Proposed use of the land to be rezoned;
- E. A statement describing how the proposed change in district boundary will be compatible with the County Comprehensive Plan; and
- F. A recommendation of the appropriate Township Board of Supervisors, provided that the township has planning and zoning authority.
- G. Complete applications for a change in district boundary (rezoning) submitted by the property owner and involving a current or proposed use which involves protected expression, shall be processed and a public hearing scheduled within thirty (30) days of their receipt.
- H. No application for a change in zoning district boundary on the same parcel of land and for the same zoning district shall be resubmitted for a period of twelve (12) months from the date of the decision on the previous application unless growth boundaries for the applicable township have been established or modified to include said parcel of land; or unless an adjoining parcel of land has been rezoned during the twelve (12) months since the initial application; or unless, in the opinion of the Director, the request is substantially changed from the original request.

#### **4.10.6 Floodplain Map Amendments and Revisions**

The County recognizes that new data may become available that better defines the floodplain areas within the County and further recognizes that the original flood maps and profiles may be in error. For these reasons, it is expected that the floodplain maps and profiles may periodically need revision or amendment. The map amendments and revisions are issued by the Federal Emergency Management Agency (FEMA). There are three basic types of floodplain map amendments or revisions that may occur as follows:

- A. **Map Amendment.** A map amendment will exclude an individual structure and/or legally described parcel of land that was inadvertently included in the Special Flood Hazard Area shown on the floodplain maps. If FEMA determines that a structure or parcel has been inadvertently included in the Special Flood Hazard Area, they will issue a Letter of Map Amendment (LOMA). A LOMA can not be issued for fill or other floodplain changes that have taken place after the initial effective date of the County's Flood Insurance Rate Map. A Letter of Map Amendment clarifies that a property is "naturally" out of the floodplain and the floodplain standards set forth in *Section 10.1 of this Ordinance* do not apply. A LOMA can be used to waive the requirements for flood insurance.
- B. **Map Revision.** A map revision will change an effective floodplain map. FEMA may issue a map revision due to a physical change such as filling or the availability of better technical data. Map revisions may change base flood elevations, floodways and other risk information contained on the flood plain maps or in the Flood Insurance Study. Map revisions such as a Letter of Map Revision (LOMR) shall not change the floodplain overlay zone requirements for the subject property for which the Letter of Map Revision was issued until the Board enacts an ordinance adopting the revised map.
- C. **Conditional Letter of Map Revision.** In some instances, FEMA will issue a Conditional Letter of Map Revision (CLOMR) which describes the effect of a proposed project on the effective floodplain map and Flood Insurance Study.

A Conditional Letter of Map Revision shall not change the floodplain overlay zone requirements unless the Board enacts an ordinance adopting the revised map.

#### **4.10.7 Notice of Hearing**

Notice of hearing for all amendments to the text of this Ordinance or all amendments to the zoning district boundaries shall be given in accordance with *Minnesota Statutes, sections 394.26 and 375.51; or successor statutes*.

Additional notice shall be given in the following instances:

- A. **Shoreland Overlay District.** In instances where the purpose of the proposed ordinance is to amend the Shoreland Overlay District standards, a copy of the notice of hearing shall be forwarded to the Department of Natural Resources and postmarked at least ten (10) days before the hearing date.
- B. **Scenic River District.** In instances where the purpose of the proposed ordinance is to amend the Scenic River District standards, a notice of the hearing, together with a copy of the proposed Ordinance shall be received by

the Department of Natural Resources at least thirty (30) days prior to the hearing date.

- C. **Floodplain Overlay District.** In instances where the purpose of the proposed ordinance is to amend the Floodplain Overlay District standards, a copy of the proposed ordinance shall be submitted to the Department of Natural Resources for their approval before final adoption by the County.

#### **4.10.8 Notice and Certification of Final Action**

- A. **Shoreland Overlay District.** In instances where an ordinance amends the Shoreland Overlay District standards, a copy of the ordinance shall be sent to the Department of Natural Resources and postmarked within ten (10) days of final action.
- B. **Scenic River District.** In instances where an ordinance amends the Scenic River District standards, the Department of Natural Resources shall be notified within ten (10) days of enactment of the ordinance. Action by the Board shall become final only when the provisions of *Minnesota Rules, part 6105.0230, subpart 3; or successor rules*, have been satisfied.
- C. **Floodplain Overlay District.** In instances where an ordinance amends the Floodplain Overlay District standards, certification of final action by the Board shall be in accordance with *Minnesota Statutes, section 103F.121, subdivision 1; or successor statutes*.

#### **4.10.9 Floodplain Overlay District Boundary Amendment.**

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

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

### **4.11 Construction Site Permit**

#### **4.11.1 Permit Required**

Except as provided in *Section 6.2.1 D and 7.22.3 of this Ordinance*, no person shall erect, alter or move any structure or part thereof without first securing a construction site permit. Additionally, no excavation for footings, foundations, slabs, posts, basements, walls or other parts of a structure shall be conducted without first securing a construction site permit.



**4.11.2 Permit Application**

Application for a construction site permit shall be made to the Department on forms to be furnished by the Department. Each application for a permit to construct, alter or move a structure shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the structure to be erected or moved onto the lot. An application for a construction site permit shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance. The application shall include all information necessary to enable the Department to determine the suitability of the site for its intended use and to ensure that a conforming sewage treatment system will be provided. Complete construction site applications for a structure, the use of which involves protected expression, shall be reviewed and a construction site permit issued within sixty (60) days, provided all the requirements of this Ordinance and other applicable ordinances, statutes and rules are met.

**4.11.3 Expiration of Construction Site Permit**

Except as provided in *Section 6.7.3 of this Ordinance*, a construction site permit shall expire and be considered null and void after one (1) year if construction has not begun. If construction has begun within one (1) year of the date of permit issuance, the permit issued by the Department shall be valid for one (1) additional year in order to complete construction. For the purposes of this Section, construction shall include the installation of footings, slabs, foundations, posts, walls or other portions of a structure and the excavation for the same. Site preparation, land clearing or the installation of utilities shall not constitute construction.

**4.12 Subsurface Sewage Treatment System Permit**

In areas without public sewer facilities, no construction site permit, conditional use permit, interim use permit or provisional use permit for any use requiring on site sewage treatment shall be issued until a subsurface sewage treatment system permit has first been issued. Designs for a subsurface sewage treatment system serving an establishment, the use of which involves protected expression, shall be reviewed and a permit issued within sixty (60) days of their receipt, provided the design meets the standards of *Minnesota Rules, chapters 7080-7083; or successor rule, and Stearns County Ordinance Number 422; or successor ordinance*. Inspections for the installation of a subsurface sewage treatment system permitted for an establishment, the use of which involves protected expression, shall be conducted within twenty four (24) hours of the request.

**4.13 Driveway Access Permit**

Accesses onto County roads shall require an access permit from the County Public Works Department. This permit shall be issued prior to the issuance of any construction site permit, conditional use permit, interim use permit or provisional use permit when the proposed use involves the installation of a new or additional access onto a County Road. The Public Works Director shall determine the appropriate location, size and design of such accesses and may limit the number of accesses in the interest of public safety and efficient traffic flow. Additionally, accesses on any township road shall, if required, require the approval and/or permit of the appropriate Township Board of Supervisors.

#### **4.14 Animal Feedlot Permits**

##### **4.14.1 Permits**

When required pursuant to *Section 6.7 of this Ordinance*, no person shall operate a new animal feedlot, or modify or expand an existing animal feedlot without first securing either a feedlot construction site permit or conditional use permit for such animal feedlot. For the purpose of this Section, a manure storage facility shall be considered a part of an animal feedlot.

##### **4.14.2 Application**

Applications for permits for animal feedlots shall be submitted in accordance with the requirements set forth in *Section 6.7.3 and 6.7.4 of this Ordinance*.

#### **4.15 Shoreland Alteration Permits**

The grading, filling, excavation or any alteration of the natural topography in the Shoreland Overlay District, unless such activity is specifically excluded in *Section 10.2.14 A of this Ordinance*, shall first be authorized by a minor or major shoreland alteration permit pursuant to *Section 10.2.14 of this Ordinance*. Property owners or their authorized agent shall submit an application for shoreland alterations, and must have a permit approved prior to conducting any shoreland alteration, except those identified as exempt in *Section 10.2.14 of this Ordinance*. A pre-application meeting is required for all shoreland alteration permits.

##### **4.15.1 Failure to obtain permit**

If a landowner or agent of a landowner makes shoreland alterations without obtaining the appropriate permit, the Department shall issue a violation report or an abatement order, consistent with *Section 4.23 of this Ordinance*. The order shall require immediate cessation of ongoing work, and shall require restoration of the altered shoreland to County-approved standards, except as provided in *Section 4.15.3 of this Ordinance*.

##### **4.15.2 Permits sought after alterations have occurred**

Except as provided below, the Department and Board shall not grant a major or minor shoreland alteration permit if the shoreland was altered without obtaining a permit, as required in *Section 4.15 of this Ordinance*.

- A. **Information required.** Applicants must submit to the Department information required on the permit application checklist provided to the applicant by the Department.
- B. **After-the-fact findings.** Conditions that must be met before the Department, Planning Commission or Board will consider an after-the-fact shoreland alteration permit include:

- (1) **Emergency stabilization.** Emergency stabilization of shoreline to prevent erosion or property damage upon failure of existing erosion control devices, provided the Environmental Services Department issues a minor shoreland alteration permit prior to alterations.
  - (2) **Finding of consistency.** Issuance of a finding by the Department or Board that the property owner or agent has provided sufficient evidence of pre-alteration site conditions and documented that the alterations were wholly consistent with the standards of this Ordinance. Expenses associated with documentation, including the hiring of third party experts, shall be borne by the property owner or their agent.
  - (3) **Finding of required mitigation.** Determination by the Department or Board of specific mitigation steps to correct for damage or risk posed by the unpermitted alteration and a demonstration by the property owner or their agent that such mitigation steps have been implemented to the satisfaction of the Board and the Department. Mitigation requirements may include restoration or partial restoration of shoreline. Costs associated with determining mitigation steps, including the hiring of third party experts, shall be borne by the property owner or their agent.
  - (4) **Financial Surety.** The Department or Board may, if necessary, recommend, and the Department shall require a bond or financial security be posted to ensure that approved alterations function as designed and that the alteration plan is not modified during required mitigation or as restoration plantings become established after the construction is complete. The Department shall set a time limit on the financial security, and may require a third party inspection of the alteration prior to vacating claim on the security.
- C. **After-the-fact site verification.** The Department shall conduct a site visit after the applicant has provided necessary information, including the following:
- (1) Pre-alteration conditions
  - (2) Design and construction detail about the unpermitted alteration
  - (3) **Restoration Plan Required.** The applicant must submit a plan for restoring the site to County standards after the Department has conducted its initial site visit.
- D. **Post Mitigation Site Visit.** The Department shall conduct a site visit after the implementation of all mitigation steps required by the Board in order to confirm mitigation or restoration.
- E. **Restoration of shoreland required.** Shoreland alterations undertaken by a property owner or agent thereof without a shoreland alteration permit are in a violation of this ordinance, and restoration of the affected shoreland shall be required in the absence of a finding by the Department or Board that after-the-fact mitigation is possible. Restoration shall mean installation of the preferred erosion control and shoreland buffers as specified by the Department or Board.

**4.16 Land Spreading of Petroleum Contaminated Soil Permit**

A permit to spread contaminated soils shall be obtained from the Board and may be granted when the standards contained in the Board's *Policy for the Spreading of Contaminated Soils in Stearns County*; or successor policy are met.

**4.17 Sign, Off-Premise (Billboard) Permits**

A permit shall be required whenever an off-premise sign (billboard) is erected, altered or relocated. Specific requirements, application procedures and exceptions are set forth in *Section 7.25 of this Ordinance*.

**4.18 Interim Use Permits**

The purpose of an interim use permit is to allow a use that is not a permitted, provisional or conditional use, for a limited period of time, subject to conditions set forth in this Ordinance.

**4.18.1 Application for Interim Use Permit**

The application for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.1 of this Ordinance*.

**4.18.2 Criteria for Considering an Interim Use Permit**

The criteria for considering an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.2 of this Ordinance*.

**4.18.3 Notice of Public Hearing**

The notice of public hearing for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.3 of this Ordinance*.

**4.18.4 Standards for Issuing an Interim Use Permit**

The Board may issue an interim use permit only if it finds that such use at the proposed location:

- A. Meets the standards of a conditional use permit contained in *Section 4.8.2 and Section 4.8.5 of this Ordinance*;
- B. Will terminate upon a date or event that can be identified with certainty;
- C. Will be subject to, by agreement between the owner and the Board, any conditions that the Board deems appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit; and
- D. Will be subject to review by the Board upon change of ownership.

**4.18.5 Notice and Certification of Final Action**

The notice of final action for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.4 of this Ordinance*.

**4.18.6 Status of Interim Use Permit**

The status of an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.6 of this Ordinance*.

**4.18.7 Expiration of Interim Use Permit**

The expiration of an interim use permit shall be the same as for a conditional use permit as provided for in *Section 4.8.7 of this Ordinance*.

**4.18.8 Termination**

An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

- A. The termination date or event stated in the permit; or
- B. The interim use permit is revoked following the same procedures for the revocation of a conditional use permit pursuant to *Section 4.8.8 of this Ordinance*; or
- C. The use has been discontinued for a minimum period of one (1) year.

**4.18.9 Reapplication**

No application for the same interim use permit for a particular use on a particular parcel of land shall be resubmitted for a period of twelve (12) months from the date of the decision of the previous application unless there has been a change in circumstances as it relates to the request.

**4.18.10 Amended Interim Use Permits**

Amended interim use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended interim use permit shall be administered in the same manner to that required for a new interim use permit.

**4.19 Essential Service, Transmission Service and Utility Substation Permits**

Specific requirements, application procedures and exceptions are set forth in *Section 7.11 of this Ordinance*.

**4.20 Licensing**

- A. License Required. No person, firm or corporation shall engage in the business of excavating, landscaping, grading or hauling fill within shoreland areas of Stearns County without first having a license from the County, paying the license fee established by Board resolution and furnishing a bond as hereinafter provided.
- B. Bond Requirement. Before a license is granted, the applicant shall furnish a bond, approved by the Board, in the sum of \$10,000.00, duly executed by the applicant, as principal and by a corporation authorized to issue such bond in the State of Minnesota, as surety. Such bond shall provide that all work done or performed by said principal shall fully conform to, and comply with, the requirements of this Ordinance.
- C. License Application. Application for license shall be made annually on a form provided by the County, and such license shall expire on December 31st following issuance.
- D. License Revocation. A license issued under the provisions of *Section 4.20 of this Ordinance* may be revoked or renewal refused by the Board for cause. Any work performed by a licensee in violation of the provisions of this Ordinance or the refusal of the licensee to correct defective work performed

by such licensee shall be cause for revocation of, or refusal to, renew a license. Prior to the revocation or refusal to renew a license issued under the provisions of *Section 4.20 of this Ordinance*, a hearing shall be given the licensee before the Board. Notice of the time, place and purpose of such hearings shall be given the licensee in writing.

(1) **Failure to obtain permit.** Shoreland alterations made by a contractor licensed under *Section 4.20 of this Ordinance* without having obtained a major shoreland alteration permit shall result in the loss of said license. Restoration costs shall be paid for using the bond or financial security posted with the license. Revocation of license shall not prevent contractor from seeking a new license.

E. **Training Requirement.** Before a license is issued, a contractor shall demonstrate attendance at a County sponsored shoreland workshop within the previous two years. To retain the license, each licensed contractor shall attend a County sponsored shoreland workshop once every two years. If a contractor cannot demonstrate attendance at a County-sponsored workshop within the previous two years, a restricted license may be granted with the condition the training requirement be fulfilled at the next scheduled workshop.

## **4.21 Compliance**

### **4.21.1 Construction**

No structure shall be erected, moved or altered unless in conformity with the standards set forth in this Ordinance.

### **4.21.2 Use**

No structure or land shall be used or occupied for any purpose or in any manner that is not in conformity with the standards set forth in this Ordinance.

### **4.21.3 Compliance with Approved Plans**

Construction and use shall be in accordance with the application, plans, permit and any applicable variance. Permits, conditional use permits, interim use permits, provisional use permits and certificates of compliance issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance.

### **4.21.4 Applications**

All applications required to be submitted under the provisions of this Ordinance shall be valid for a period of one year once they are considered complete and have been accepted by the Department.

## **4.22 Registration of Provisional Uses**

Registration shall be required for any use listed as a provisional use in the primary zoning districts.

## **4.23 Abatement Orders**

### **4.23.1 Abatement Orders**

An abatement order may be issued by the Director when the Director refuses to issue a permit or when the Board refuses to issue a conditional or interim use permit or when the Board of Adjustment refuses to grant a variance for a project that was started or completed prior to consideration of the application. An abatement order may also be issued by the Director to correct or abate any violation of the provisions of this Ordinance. The abatement order shall be delivered personally or by certified mail to the owner of record of the property on which the violation exists and shall specify the following:

- A. A date by which the landowner shall complete abatement and obtain a letter of satisfaction from the Department.
- B. The action on the part of the property owner required to eliminate or resolve the violation.
- C. Advise the landowner that the failure to comply with the abatement order is a violation of this Ordinance.
- D. Advise the property owner of their right to appeal the abatement order to the Board of Adjustment within ten (10) business days of receipt of the abatement order.

## **4.24 LESA and the Resource Suitability Model**

Both the LESA system and the Resource Suitability Model may be used as a land use and zoning tool by staff of the Department, the Platting Committee, the Planning Commission, the Board of Adjustment, the Feedlot Review Committee and the Board to enable the County to determine the suitability of land for the purposes of rezoning, permitted uses, accessory uses, conditional uses, interim uses, variances, development, plats, conversion of uses, shoreland alterations or any other land use or zoning decision required to administer any County ordinance. Based upon the use of these tools, staff of the Department, the Platting Committee, the Planning Commission, the Board of Adjustment, the Feedlot Review Committee and the Board may recommend approval or denial, approve, deny, modify or impose conditions upon any land use application, permit or document associated with any County ordinance.

## **4.25 Stop Work Order**

The Director may issue a written stop work order upon the determination by the Department that construction, excavation or any other activity regulated by this Ordinance is taking place without authorization by the County. This order shall detail the violations, the remedies necessary to correct the violations and the time frame allowed in which the property owner is to correct the violations. The order shall also indicate that the property owner has ten (10) business days from the receipt of the stop work order to appeal the order to the Board of Adjustment. Upon receipt of a stop work order, the person conducting the construction, excavation or other activity regulated by this Ordinance shall immediately cease the activity until authorization for such activity is granted by the Department. Each day that a violation continues shall constitute a separate offense.





## SECTION 5 NONCONFORMITIES

### 5.1 Nonconforming Uses, Structures and Lots

Within the primary and overlay districts established in this Ordinance or amendments that may later be adopted, certain situations may occur in which an existing use, structure or lot does not comply with the requirements contained in this Ordinance. It is the intent of this Ordinance to regulate nonconforming situations in such a way that any nonconformity is managed in accordance with *Section 5 of this Ordinance and Minnesota Statutes section 394.36; or successor statutes.*

#### 5.1.1 Nonconforming Uses

##### Nonconforming Use Standards for all Districts

Unless provided otherwise in *Section 5.1 of this Ordinance*, any use existing on the effective date of this Ordinance which is not in conformity with the standards contained in this Ordinance shall only be allowed to continue subject to the following conditions:

- A. A nonconforming use that existed prior to April 21, 2000 shall be allowed to continue subject to the standards in this ordinance. With the exception of animal feedlots, any expansion or addition shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the standards of this Ordinance. The nonconforming use may not be extended beyond the parcel boundary that existed on April 21, 2000.
- B. A change from one nonconforming use to another nonconforming use is prohibited.
- C. For uses involving the removal of natural materials such as granite, sand or gravel and solid waste management facilities, the use may be extended to cover more land than was occupied at the time it became nonconforming, provided the expansion takes place within the boundaries of the facility permitted by the Minnesota Pollution Control Agency (MPCA) and during the term of the MPCA permit. A use involving the removal of natural materials may be expanded within the boundaries of the parcel where the use was established at the time it became nonconforming, subject to the standards for mining contained in *Section 7.17 of this Ordinance*.
- D. A nonconforming use that has been discontinued for a period of twelve (12) consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance, except as provided in *Minnesota Statutes, section 116.0711 governing Feedlot Permits; or successor statutes* and *Section 6.7.3 C of this Ordinance*.
- E. If a structure used for a nonconforming use is destroyed by fire or other peril to the extent of fifty (50) percent of its market value as indicated in the records of the county assessor at the time of damage, replacement shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the standards of this Ordinance, except as provided in *Minnesota Statutes, section 116.0711 governing Feedlot Permits; or successor statutes* and *Section 6.7.3 C of this Ordinance*.

- F. Structural alterations and replacement of telecommunication equipment, towers and support structures (including broadcast stations) for AM and FM radio services pursuant to *Section 7.27 of this Ordinance* are allowed.
- G. The addition or replacement of antennas and associated equipment for wireless telecommunication facilities are allowed pursuant to *Section 7.27 of this Ordinance*.
- H. The use of any tract for the purpose of a children's camp or youth camp that existed on or before April 21, 2000 shall be considered a permitted use regardless of the primary zoning district, except that any expansion or addition shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the standards of this Ordinance.

### 5.1.2 Nonconforming Structures

- A. **Nonconforming Structure Standards for all Districts.** Unless provided otherwise in *Section 5.1 of this Ordinance*, any structure existing on the effective date of this Ordinance which is not in conformity with the setback, size or height requirements contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:
  - (1) Expansion of a nonconforming structure in any manner, including but not limited to expansion of height, width, footprint, size or bulk is allowed only in accordance with this Ordinance and are specifically limited by *Sections 5.1.2 and 5.1.4 of this Ordinance*.
  - (2) Properties classified as homestead and nonhomestead residential and seasonal residential. A non-conforming structure may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion with the following exceptions:
    - (a) The structure is damaged by fire or other peril to the extent of fifty (50) percent or more of its market value as indicated in the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the structure was damaged, , and any construction thereafter shall be in compliance with the provisions of *this Ordinance*. If a building permit has been applied for within 180 days of when the structure was damaged, reasonable conditions may be placed upon the zoning or building permit in order to mitigate any newly created impacts on adjacent properties or water bodies.
  - (3) Properties not classified as homestead and nonhomestead residential or seasonal residential. If the nonconformity or occupancy of a nonconforming structure is discontinued for more than one year, or the structure is damaged by fire or other peril to the extent of fifty (50) percent or more of its market value as indicated in the records of the County Assessor at the time of damage, it shall be removed, and any construction thereafter shall be in compliance with the provisions of *this Ordinance*. Normal maintenance, including non-structural

maintenance and repair, except structural alteration of a nonconforming structure, is permitted.

- (4) Additions or alterations to, and replacements of any residential dwelling unit or RB animal feedlot which does not meet the residential setback from an animal feedlot or animal feedlot setback from a residential dwelling unit may be allowed on a one-time basis, provided the residential dwelling unit or RB animal feedlot does not encroach into the nonconforming setback by more than twenty four (24) feet and further provided that all other setback provisions of this Ordinance are met.
- (5) Additions or replacements of mortality incinerators in existence on or before October 5, 2010 may be allowed through October 5, 2020 provided the incinerator was registered on or before December 31, 2010 according to *Section 6.28 of this Ordinance*.
- (6) Telecommunication equipment, towers and support structures (including broadcast stations) for AM and FM radio services not in conformity with the setback, size or height requirements contained in this Ordinance are allowed to be replaced at the same height in accordance with Federal Communications Commission regulations provided the requirements of *Section 7.27.2 of this Ordinance* are met. Applications for replacement towers shall be accompanied by a certification from a licensed structural engineer indicating the projected fall zone. If the projected fall zone is located on adjacent property, a recorded fall zone easement shall be recorded prior to issuance of a construction site permit.
- (7) The addition or replacement of antennas and associated equipment for wireless telecommunication facilities are allowed pursuant to *Section 7.27 of this Ordinance*.
- (8) Billboards that existed on or before April 21, 2000 that are not in conformity with the setback, size or height requirements are allowed to be replaced pursuant to *Sections 4.8 and 7.24 of this Ordinance*.

**B. Nonconforming Structure Standards in the Floodplain Overlay District.**

In addition to the standards for nonconforming structures set forth in *Section 5.1.2 of this Ordinance*, the following additional requirements shall apply in the Floodplain Overlay District.

- (1) Additions and alterations to nonconforming structures shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or floodproofing techniques allowable in the State Building Code except as further restricted in 5.1.2(B)(2) and 5.1.2(B)(4).
- (2) The cost of all structural alterations or additions allowed in *Section 5.1.2 B.(1) of this Ordinance*, to a nonconforming structure shall not exceed fifty (50) percent of the market value of the structure as indicated in the records of the County Assessor over the life of the structure, unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all labor. If the cost of all previous and proposed alterations and additions exceeds fifty

- (50) percent of the market value of the structure, then the entire structure shall comply with the standards contained in *Section 10.1 of this Ordinance* for new structures.
- (3) If any nonconforming use or structure is substantially damaged, as defined in Section 3.2 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 10.1.7, 10.1.8 or 10.1.9 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.
  - (4) If a substantial improvement occurs, as defined in Section 3.2 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 10.1.7 or 10.1.8 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
- C. **Nonconforming Structure Standards in the Shoreland Overlay District.** In addition to the standards for nonconforming structures set forth in *Section 5.1.2 of this Ordinance*, the following additional requirements shall apply in the Shoreland Overlay District.
- (1) Additions or alterations to a nonconforming accessory structure shall not be allowed unless the addition or alteration meets the minimum setback requirement for the applicable lake or river classification.
  - (2) Additions or alterations to a nonconforming principal structure that is partially or wholly lakeward or riverward of an established building line, determined pursuant to *Section 10.2.11 A (2) of this Ordinance*, may be allowed, provided any addition or alteration is landward of the established building line, the provisions of *Section 5.1.2 C (3) of this Ordinance* are met and all other provisions of *this Ordinance* are met. In instances where an established building line cannot be determined, additions or alterations shall not be allowed to a nonconforming principal structure unless the addition or alteration meets the minimum setback requirement for the applicable lake or river classification.
  - (3) Any addition or alteration to a nonconforming structure that is located wholly or partly within the shore impact zone shall not be allowed.
  - (4) Decks constructed in compliance with *Section 10.2.11 A (3) of this Ordinance* may be allowed, provided all other provisions of this Ordinance are met.
  - (5) If a nonconforming structure within a Shoreland Overlay District with less than fifty (50) percent of the required setback from the water is damaged by fire or other peril to greater than fifty (50) percent of its estimated market value as indicated in the records of the County Assessor at the time of the damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit in order to mitigate any newly created impacts on adjacent properties or water bodies.

- (6) **Non-Conforming Retaining Walls.** Consistent with *Minnesota Statutes, section 394.36 subd. 4; or successor statutes*, existing retaining walls that are non-conforming may be replaced, provided the structure is not expanded, moved, increased in height or results in increased impact on the water body. The Board shall, in review of the project for a major shoreland alteration permit, set reasonable conditions and mitigation requirements to ensure structural integrity, aesthetic characteristics and to ensure natural resource protection goals are achieved for repair, replacement, restoration or improvement of said structure.
  - (a) Abandoned, discontinued or dysfunctional. If the nonconforming structure is abandoned, discontinued or dysfunctional in its original intent for a period of more than one (1) year, or is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use of the land or premises must conform to County standards.
- (7) **Non-Conforming Sand Blankets** Consistent with *Minnesota Statutes, section 394.36 Subd. 4; or successor statutes*, existing sand blankets that are non-conforming may be replaced, provided the structure or blanket is not expanded, moved or results in increased impact on the water body. The Department shall, in review of the project for a minor shoreland alteration permit, set reasonable conditions and mitigation requirements to ensure aesthetic characteristics and natural resource protection goals are achieved for repair, replacement, restoration or improvement.

### **5.1.3 Nonconforming Lots**

#### **A. Parcel of Record**

All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a parcel of record. A parcel of record shall be a legally buildable parcel even though such parcel may not conform to the lot area, lot width or residential density requirements of the applicable primary or overlay district, provided all of the following are met:

- (1) The use is permitted in the applicable zoning district; and
- (2) In the Shoreland Overlay District, the lot or tract has been in separate ownership from abutting lands at all times since it became nonconforming; and
- (3) In the Shoreland Overlay District, the impervious surface coverage does not exceed twenty-five (25) percent of the lot; and
- (4) The lot was created compliant with the official controls in effect at the time; and
- (5) The applicable setback requirements of this Ordinance are met; and

- (6) The sewage treatment system standards contained in *Stearns County Ordinance Number 422; or successor ordinances* are met.

**B. Residual Parcels**

A parcel of record, as defined in *Section 5.1.3 A of this Ordinance*, that is subsequently reduced to a residual parcel because of a taking or dedication for a public purpose or public right of way shall continue to be considered a parcel of record and shall be considered a legally buildable parcel, provided the applicable setback requirements of this Ordinance and the sewage treatment standards contained in *Stearns County Ordinance Number 422; or successor ordinances*, are met.

**C. Combined Lots or Parcels in Shoreland Overlay District**

If, in a group of two (2) or more contiguous lots or parcels under the same ownership, any individual lot or parcel does not meet the lot area or width requirements set forth in *Section 10.2.8 or Section 10.2.9 of this Ordinance*, the lot or parcel shall not be considered as a separate lot or parcel for the purposes of sale, transfer or development; and the lot or parcel shall be combined with one or more contiguous lots or tracts so that together, they equal one or more lots or tracts, each meeting the requirements of this Ordinance.

- (1) Contiguous lots under the same ownership are exempt from this Section and may be considered as separate parcels for the purposes of sale, transfer or development if each individual lot meets all of the following requirements:
  - (a) The lot meets at least sixty-six (66) percent of the dimensional standards for lot width and lot size for the Shoreland Overlay District within which it lies; and
  - (b) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 subsurface sewage treatment system meeting the standards contained in *Stearns County Ordinance Number 422; or successor ordinance*; and
  - (c) Impervious surface coverage does not exceed twenty-five (25) percent of the lot; and
  - (d) Development of the lot is consistent with the Stearns County Comprehensive Land Use Plan.
- (2) Contiguous lots under the same ownership are exempt from this Section and may be considered as separate parcels for the purposes of sale, transfer or development if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are served by a public sewer, if available, or must be suitable for the installation of a subsurface sewage treatment system meeting the standards contained in *Stearns County Ordinance Number 422; or successor ordinances*.
- (3) In Shoreland Overlay Districts, a portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

**D. Standards for Applications Involving Nonconformities in Shoreland Overlay Districts**

In evaluating all variances, zoning and building permit applications or conditional use requests for nonconformities in Shoreland Overlay Districts, the County shall require the property owner to address, when appropriate:

- (1) Stormwater runoff management;
- (2) Reducing impervious surfaces;
- (3) Increasing setbacks;
- (4) Restoration of wetlands;
- (5) Vegetative buffers;
- (6) Sewage treatment and water supply capabilities; and
- (7) Other conservation-designed actions.

**E. Combined Lots or Parcels in the Scenic River District**

Lots or parcels of record at the County Recorder's Office on or before June 21, 1977 which do not meet the lot size requirements of *Section 9.14.10 of this Ordinance* may be allowed as a building site provided the use is permitted in the Scenic River District, the lot was recorded in separate ownership from abutting lands at the County Recorder's Office on or before June 21, 1977 and all setback requirements of this Ordinance and the standards for sewage treatment systems contained in *Stearns County Ordinance Number 422; or successor ordinances*, are met.

**5.1.4 Nonconforming Animal Feedlots**

A. In instances where more than one nonconformity exists and standards conflict, the more restrictive standard will be applied.

**B. Shoreland Overlay**

Existing animal feedlots located in the Shoreland Overlay District shall be managed in accordance with the underlying or primary zoning district, except as provided in *Minnesota Statutes, section 116.0711; or successor statutes*.

**C. Not Registered with Nonconforming Setback(s)**

An animal feedlot with at least ten (10) animal units that was not registered by January 1, 2002 or has not maintained registration shall be subject to all requirements of this Ordinance for expansions or modifications including setback requirements for new animal feedlots and manure storage areas, structures or facilities provided for in *Section 6.7.5 D of this Ordinance*.

**D. R-5, R-1, RT or EE District**

An existing animal feedlot that would not otherwise be allowed as a provisional, permitted, interim use or conditional use in the underlying or primary zoning district is a nonconforming use, and except for modifications to improve manure management and storage, shall be managed in accordance with *Section 5.1.1 of this Ordinance*.

**E. T-20, R-20 and R-10 District**

An animal feedlot that is located in a T-20, R-20 or R-10 zoning district, but which does not meet the setback requirements in *Section 6.7.5 of this Ordinance*, or the number of animal units exceeds the maximum number allowed in *Section 6.7.6 of this Ordinance* is nonconforming as to setback and/or animal unit density and shall be managed as follows:

(1) **Setback nonconforming**

Replacement structures and facilities, and expansions or modifications to an animal feedlot which is nonconforming because of the setback provisions of this Ordinance, may be allowed, provided all of the following are met:

- (a) An animal feedlot permit is granted pursuant to *Sections 4.8 and 6.7.3 of this Ordinance*;
- (b) An RB animal feedlot shall not further encroach into the nonconforming setback closer than the closest point of the registered or permitted animal feedlot. A one-time exception shall be given to the residential dwelling setback but not by more than twenty four (24) feet.
- (c) An RA animal feedlot shall meet all setbacks except as specifically allowed by an approved variance, for which the animal feedlot shall then not further encroach than the closest point of the permitted animal feedlot as specified by an approved variance.
- (d) The structural setbacks established in *Section 10.2.11 A (1) and (4) of this Ordinance* shall be met;
- (e) The number of animal units shall not exceed the maximum number of animal units allowed in *Section 6.7.6 of this Ordinance*; however, changes to animal type may be allowed if best management practices and odor reducing technologies are incorporated.

(2) **Animal Unit Density Nonconforming – Primary Zoning District Non-Agricultural**

An animal feedlot that is located in the T-20, R-20 or R-10 District and is nonconforming because the number of animal units exceeds the maximum number allowed in *Section 6.7.6 of this Ordinance* shall be managed in accordance with *Section 5.1.1 of this Ordinance*. However, modifications to improve manure management may be allowed, provided the applicable permit is granted pursuant to *Section 6.7.4 of this Ordinance*.

F. **Agricultural District and Urban Expansion**

An animal feedlot that is located in an A-160, A-80, A-40 or Urban Expansion zoning district, but does not meet the setback requirements *Section 6.7.5 of this Ordinance*, or the number of animal units exceeds the maximum number allowed in *Section 6.7.6 of this Ordinance* is nonconforming as to setbacks and/or animal unit density and shall be managed as follows:

(1) **Setback nonconforming**

Replacement structures or facilities and expansions or modifications, may be allowed provided all of the following are met:

- (a) An RB animal feedlot shall not further encroach into any nonconforming setback closer than the closest point of the registered or permitted animal feedlot. A one-time exception



shall be given to the residential dwelling setback but not by more than twenty four (24) feet.

- (b) An RA animal feedlot shall meet all setbacks except as specifically allowed by an approved variance, for which the animal feedlot shall then not further encroach than the closest point of the permitted animal feedlot as specified by an approved variance. The setbacks from the Ordinary High Water Level and bluff established in *Section 10.2.11 A (1) and (4) of this Ordinance* shall be met;
- (c) An animal feedlot permit is granted pursuant to *Section 6.7.3 of this Ordinance*.

**(2) Animal Unit Density Nonconforming**

An animal feedlot that is located in an Agricultural District or Urban Expansion and is nonconforming because the number of animal units exceeds the maximum number allowed in *Section 6.7.6 of this Ordinance* shall be allowed replacement structures or facilities and expansions or modifications provided all of the following are met:

- (a) The registered animal units for the animal feedlot will not increase and the animal type will not change;
- (b) The nonconformity has not been discontinued for a period of twelve (12) consecutive months since April 21, 2000;
- (c) An animal feedlot permit is granted pursuant to *Section 6.7.3 of this Ordinance*.



## SECTION 6 PERFORMANCE STANDARDS

### 6.0 Purpose

The purpose of this section is to provide standards for specific uses listed as permitted, accessory, provisional, interim or conditional within the primary district or any applicable overlay district. The performance standards contained in *Section 6 of this Ordinance* apply to specific uses and are requirements that are in addition to any other requirement of this Ordinance for a specific use.

### 6.1 Accessory Buildings – Agricultural

#### 6.1.1 Performance Standards

An agricultural accessory building shall comply with the following standards:

- A. All setback and building height requirements for the primary and overlay districts shall be met.
- B. There is no limit to the number of agricultural accessory buildings per agricultural parcel.
- C. Agricultural accessory buildings shall be used for agricultural use only. No commercial use or commercial related storage is allowed in these structures, except as otherwise allowed by *this Ordinance*.
- D. Agricultural accessory buildings used to shelter domestic farm animals shall also meet the animal feedlot standards contained in *Section 6.7 of this Ordinance*.
- E. Accessory buildings on property that is not classified as an agricultural property under the County's tax classification system shall be considered a residential accessory building and shall meet the performance standards of *Section 6.2 of this Ordinance*.
- F. A conditional use permit, subject to the standards of *Sections 4.8 and 7.32 of this Ordinance*, is required for agricultural accessory structures in the A-160, A-80 and A-40 zoning districts when the parcel upon which the proposed accessory structure is to be built has a Land Evaluation Site Assessment score of 65 or above, unless; 1) the proposed agricultural accessory structure will be located wholly or partly within one hundred fifty (150) feet of an existing structure on the parcel on which the agricultural accessory structure is being proposed; or 2) unless, after evaluating site conditions, the Department determines that the location of the proposed agricultural accessory structure will have no or minimal impact upon the underlying tillable farmland and is conformance with the general development standards of *Section 7.32 of this Ordinance*.

### 6.2 Accessory Buildings – Residential

#### 6.2.1 Performance Standards

All residential accessory buildings, except those located in a Residential Manufactured Home District, shall comply with the following standards:

- A. The total number of residential accessory buildings that may be constructed on a lot of nine and one-half (9.5) acres or less in the Shoreland District is two (2) and the total cumulative area that residential accessory buildings may

occupy on a lot in the Shoreland District and maximum side wall height that shall be allowed is as follows:

Lot size in acres*	Maximum Accessory Building Area	Sidewall Height	Building Height
0 -.49	900 Square Feet	10 Feet	16 Feet
.5 - .99	1,200 Square Feet	10 Feet	16 Feet
1 – 1.99	1,500 Square Feet	12 Feet	20 Feet
2 – 4.49	1,800 Square Feet	14 Feet	22 Feet
4.5- 9.49	2,400 Square Feet	14 Feet	24 Feet
9.5 or greater	Unlimited**		

\*Only land above the ordinary high water level shall be used to calculate lot size

\*\* Lots 9.5 acres or greater will only be limited by the total lot coverage

- B. Except as provided in *Section 6.2.1 A and Section 6.2.1 C of this Ordinance*, the maximum residential accessory building area shall be five (5) percent of the total lot area.
- C. One garage of up to nine hundred (900) square feet, whether detached or attached to the principal residential structure, shall not be considered in the calculation of the cumulative residential accessory building area. However, in the RT, R-1, R-5, R-10, R-20 and T-20 zoning districts, the total cumulative attached garage floor area shall not exceed the area of the outside dimension of the principal residential structure.
- D. Any accessory building without a foundation that is equal to or less than one hundred fifty (150) square feet in area is subject to the following standards:
  - (1) Shall not be considered in the calculation of accessory building area or in calculating the number of accessory buildings allowed.
  - (2) A Construction Site Permit shall not be required.
  - (3) All applicable setbacks and standards shall be met.
- E. Except as provided in *Section 7.28 of this Ordinance*, no residential accessory building shall be used as a residential dwelling unit.
- F. All setback and building height requirements for the primary and overlay districts shall be met.
- G. Residential accessory buildings shall be used for residential accessory uses only and shall not be used at any time as a residential dwelling unit. No commercial use or commercial related storage is allowed in these structures, except as otherwise allowed with the operation of a home extended business or with a conditional use for a limited rural business.
- H. No residential accessory building shall be located closer than ten (10) feet to the principal residential building on the lot.
- I. In the Residential (R-1) District, the exterior color, design and/or materials of a residential accessory building shall be similar to the principal residential building on the lot. Galvanized metal siding and galvanized metal roofs shall not be allowed.
- J. Decks are not allowed on any detached accessory structures.

- K. A conditional use permit, subject to the standards of *Sections 4.8 and 7.32 of this Ordinance*, is required for residential accessory structures in the A-160, A-80 and A-40 zoning districts when the parcel upon which the proposed accessory structure is to be built has a Land Evaluation Site Assessment score of 65 or above, unless; 1) the proposed residential accessory structure will be located wholly or partly within one hundred fifty (150) feet of an existing structure on the parcel on which the residential accessory structure is being proposed; or 2) unless, after evaluating site conditions, the Department determines that the location of the proposed residential accessory structure will have no or minimal impact upon the underlying tillable farmland and is conformance with the general development standards of *Section 7.32 of this Ordinance*.
- L. Dormers meeting all of the following standards shall not be calculated in the sidewall height of a building; the total horizontal dimension of a dormer facing a given side of a building, as measured parallel to that side, shall not exceed twenty-five (25) percent of the length of the exterior wall(s) and collectively shall not total greater than fifty (50) percent of the width of the wall below it.

### **6.3 Accessory Buildings – Commercial and Industrial Districts**

#### **6.3.1 Performance Standards**

An accessory building shall comply with the following standards:

- A. Gate houses, guard shelters and similar accessory buildings less than or equal to one hundred twenty (120) square feet in area may be located one-half the required setback from a roadway with approval of the township or Public Works Director.
- B. All other commercial and industrial buildings shall meet the principal structure requirements for the district in which it is located.

### **6.4 Adult Uses (Sexually Oriented Uses)**

#### **6.4.1 Purpose**

The nature of adult uses is such that they are recognized as having adverse secondary effects, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day care centers, libraries or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects will not contribute to nor enhance criminal activity in the area of such uses, nor contribute to the blighting or downgrading of the surrounding property and the lessening of the property values.

Adult uses as defined in this Chapter shall be subject to the following general provisions:

- A. Activities classified as obscene as defined by *Minnesota Statutes, section 617.241; or successor statutes*, are not permitted and are prohibited.
- B. Adult uses, either principal or accessory, shall be prohibited from locating in any building that is also utilized for residential purposes.
- C. Adult uses, either principal or accessory, shall be prohibited from being located in any place that is also used to dispense or consume alcoholic beverages.
- D. An adult use that does not qualify as an accessory use shall be classified as an adult use-principal.
- E. All adult uses shall be conducted wholly within the principal structure.

#### **6.4.2 Adult Uses – Principal**

Principal adult uses are allowed as a provisional use in the Industrial district.

##### **A. Performance Standards**

Principal adult uses shall comply with the following standards:

- (1) Any Adult Uses-Principal shall be located at least one thousand five hundred (1,500) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the Adult Use-Principal is located, to the property line of:
  - (a) Residentially zoned property and/or residential dwelling unit(s);
  - (b) A licensed day care center;
  - (c) A public or private education facility classified as an elementary, middle school, junior high, senior high or home school;
  - (d) A public library;
  - (e) A public or private park;
  - (f) Another Adult Use-Principal; or
  - (g) An on-sale liquor establishment.
- (2) Adult Use-Principal activities, as defined in this Ordinance, shall be classified as one use. No two (2) Adult Uses-Principal shall be located in the same building or upon the same property and each use shall be subject to *Section 6.4.2 A (1) and (2) of this Ordinance*.
- (3) Signage shall be subject to the sign regulations in *Section 7.24 of this Ordinance* and the following regulations:
  - (a) Signs shall be generic in nature and shall only identify the business;
  - (b) Shall not contain material classified as advertising;
  - (c) Shall comply with the requirements of size and number for the district in which they are located; and
- (4) Adult Use-Principal activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted.
- (5) Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- (6) The applicant seeking approval of a construction site permit for a structure housing an Adult Use-Principal or a registrant proposing to use an existing structure for an Adult Use-Principal shall provide

evidence certified by a professional land surveyor that the proposed Adult Use-Principal is in conformity with the setback requirements of *Section 6.4.2 A.(1) of this Ordinance*.

- (7) Exterior display. No Adult Use-Principal shall be constructed or operated in any manner that permits the observation of any person or material depicting, describing or relating to specified sexual activities or specified anatomical areas, from any public way or from any property not registered as an Adult Use-Principal. This provision shall apply to any display, decoration, sign, show window or other opening.
- (8) Adult Uses-Principal shall only be open from the hours of 4:00 p.m. to 12:00 a.m. (midnight), Monday through Saturday each week.

#### **6.4.3 Adult Uses – Accessory**

##### **Performance Standards**

Accessory adult uses shall comply with the following standards:

- A. Adult accessory uses shall comprise no more than ten (10) percent of the floor area of the establishment in which it is located and no more than twenty (20) percent of the gross receipts of the entire business operation on the premises, or involve or include any activity except the sale or rental of merchandise.
- B. Adult accessory uses shall be restricted from, and prohibit access to, minors by the physical separation of such items from areas of general public access:
  - (1) Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation. Doorways shall have doors removed.
  - (2) Magazines. Publications classified or qualifying as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
  - (3) Other Uses. Adult uses-accessory not specifically cited shall comply with the intent of this Section subject to the approval of the Director.
- C. Adult use-accessory shall be prohibited from both internal and external advertising of adult materials and products.
- D. Adult use-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

#### **6.4.4 Amortization.**

An Adult Use-Principal established prior to the enactment of this Ordinance shall be permitted and regulated as a non-conforming use until December 31, 2003, at which time such use shall become unlawful, unless it conforms to the requirements of *Sections 6.4.2 and 6.4.3 of this Ordinance*.

## **6.5 Agriculturally Oriented Business**

### **6.5.1 Performance Standards**

An agriculturally oriented business shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following standards:

- A. The site shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The use shall comply with all applicable Federal, State and County rules and regulations.
- C. The business shall be an agriculturally-oriented business.
- D. All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
- E. Outdoor storage and display areas may be allowed as an accessory use to the agriculturally-oriented business provided they meet the structural setbacks for the applicable zoning district and the performance standards contained in *Sections 6.45 and 6.47 of this Ordinance*.
- F. Adequate parking for employees and customers shall be provided on site and shall meet the parking standards of *Section 7.19 of this Ordinance*.
- G. The grounds and all structures shall be maintained in a clean and safe manner.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.6 Air Strips, Private**

### **6.6.1 Performance Standards**

A private airstrip shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following standards:

- A. The private airstrip shall not be held out for public use nor shall it be displayed on aeronautical charts except as a restricted facility.
- B. A private airstrip shall be subject to all applicable provisions of *Minnesota Rules, chapter 8800; or successor rules*.
- C. Landing strips and necessary approach areas for private airstrips shall be wholly owned by the operator of the private airstrip. A private airstrip shall not impose height restrictions on adjoining property. A private airstrip shall not impose undue hazards upon adjoining property or its occupants or endanger the user or use of surface transportation or power and communication transmission lines.
- D. Public airports shall be governed by *Section 10.4 of this Ordinance*.



## 6.7 Animal Feedlot Standards

### 6.7.1 Intent

- A. An efficient and profitable livestock industry is an economic benefit to Stearns County and to the State of Minnesota. Stearns County recognizes the economic, social and cultural importance of a healthy livestock industry. It provides a value-added opportunity to our crop based agriculture and creates service industries, which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices.
- B. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed of, to contribute to air, surface water and ground water pollution. When properly utilized, such wastes contribute to soil fertility and structure and enhance efficient crop production. The following standards are promulgated to reduce the risk of pollution of natural resources from animal feedlots and the land application of manure.
- C. At all times, all animal feedlots, manure storage areas, structures, facilities and manure application sites in the County shall be operated and maintained in a manner consistent with their registration, feedlot construction short-form permit, feedlot interim permit, conditional use permit, variance, State Disposal System Permit, National Pollutant Discharge Elimination System Permit, this Ordinance, *Minnesota Rules, chapter 7020; or successor rules, and Minnesota Statutes, section 116.07 subd.7a; or successor statutes.*

### 6.7.2 Registration

- A. Registration and re-registration shall be required for Animal Feedlots with ten (10) or more Animal Units or a Manure Storage Area, Structure or Facility with the Manure produced by ten (10) or more Animal Units using a form provided by the Department every four years following the provisions of *Minnesota Rules, part 7020.0350; or successor rules*, except that animal feedlots outside of shoreland with at least ten (10) animal units but less than fifty (50) animal units shall be required to register with the Department every six (6) years. Re-registration shall be required for an animal feedlot which is not considered a discontinued animal feedlot.
- B. **Registration and Non-Conforming Use.** When an animal feedlot is considered a discontinued animal feedlot or an RA animal feedlot, the structure(s) and premises, in combination, shall not thereafter be used except in conformance with this Ordinance, except as provided in *Minnesota Statutes, section 116.0711 subd. 1; or successor statutes.*

### 6.7.3 Animal Feedlot Permits

- A. **Feedlot Approval.** No person shall permit or allow their land or property under their control to be used for animal feedlots, and no animal manure from any animal feedlot shall be disposed of within the County of Stearns, except at an operation which has been approved in accordance with the provisions of this Ordinance and *Minnesota Rules, chapter 7020; or successor rules.*

**B. Potential Pollution Hazard.**

- (1) No animal feedlot, manure storage area, structure, facility or manure application site shall be constructed, located, operated or maintained so as to create a potential pollution hazard.
- (2) The owner of any animal feedlot will be required to apply for a County or State Feedlot Permit if the animal feedlot creates or maintains a potential pollution hazard regardless of the size of the animal feedlot.

**C. Re-establishment of an Animal Feedlot in Shoreland.** *Per Minnesota Rules 116.0711 Subd. 1; or successor statutes* a county animal feedlot

permit shall be required for re-establishment of an animal feedlot with ten (10) animal units or more in shoreland based on the following conditions:

- (1) When the animal feedlot is located in an Agricultural zoning district, a Conditional Use Permit is approved for the request per *Section 6.7.3 E of this Ordinance*;
- (2) For animal feedlots located in Urban Expansion, T-20, R-20, R-10 or R-5 zoning districts an Interim Use Permit is approved for the request;
- (3) Animal feedlot structures are existing at the time of a permit application;
- (4) At the time of re-establishment and thereafter, new animal feedlot structures are prohibited except manure management improvements;
- (5) Replacement of structures previously used as an animal feedlot are allowed as provided for in *Section 5.1.4 of this Ordinance*;
- (6) The request meets the standards of *Sections 6.7.5, 6.7.6, and 6.7.9 of this Ordinance or Section 4.9 of this Ordinance*;
- (7) Once re-established, the animal feedlot is considered an RA feedlot; and
- (8) Once re-established, the animal feedlot owner shall maintain registration per *Section 6.7.2 of this Ordinance*.

<b>Permit Requirements for Re-Establishment of an Animal Feedlot in Shoreland with 10 AU or more</b>								
	<b>Primary Zoning District</b>							
<b>Animal Units</b>	<b>A-160 &amp; A-80</b>	<b>A-40</b>	<b>T-20</b>	<b>R-20 &amp; R-10</b>	<b>R-5</b>	<b>R-1 &amp; EE</b>	<b>Urban Expansion</b>	<b>All other zoning</b>
<b>10 – 700+ Animal Units</b>	CSF & CUP	CSF & CUP	CSF & IUP	CSF & IUP	CSF & IUP	Prohibited	CSF & IUP	Prohibited
AU – Animal Unit CSF – County Construction Short-form Permit or County Interim Feedlot Permit CUP – Conditional Use Permit IUP – Interim Use Permit	For any of the above, a CUP may or may not be required per <i>Section 6.7.3 D &amp; E of this Ordinance</i> .							

Animal Units	Primary Zoning District							
	A-160 & A-80	A-40	T-20	R-20 & R-10	R-5	R-1 & EE	Urban Expansion	All other zoning
10 – 700+ Animal Units	CSF & CUP	CSF & CUP	CSF & IUP	CSF & IUP	CSF & IUP	Prohibited	CSF & IUP	Prohibited

AU – Animal Unit  
 CSF – County Construction Short-form Permit or County Interim Feedlot Permit  
 CUP – Conditional Use Permit  
 IUP – Interim Use Permit

For any of the above, a CUP may or may not be required per *Section 6.7.3 D & E of this Ordinance*.

**D. County Permit Requirements.**

Except as otherwise provided in *Section 6.7.3 C of this Ordinance*, a county animal feedlot permit shall be required for construction, expansion, or modification of animal feedlots based on the following:

<b>Permit Requirements</b>
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Animal Units	Primary Zoning District							
	A-160 & A-80	A-40	T-20	R-20 & R-10	R-5	R-1 & EE	Urban Expansion	All other zoning districts
<b>0.003 - 9 Animal Units</b>	CSF	CSF	CSF, AUD <sup>2,3</sup>	CSF, AUD <sup>2,3</sup>	CSF & IUP <sup>1</sup> , AUD <sup>2,3</sup>	CSF, AUD <sup>2,3</sup>	CSF, AUD <sup>2,3</sup>	New Prohibited <sup>2</sup>
<b>10 – 499 Animal Units</b>	CSF	CSF	CSF, AUD <sup>2,3</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>
<b>500 – 699 Animal Units</b>	CSF	CSF & FRC	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>
<b>700 or more Animal Units</b>	CSF & CUP	CSF & CUP	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>	New Prohibited <sup>2</sup>
AUD – Animal Unit Density CSF – County Construction Short-form Permit or County Interim Feedlot Permit CUP – Conditional Use Permit FRC – Feedlot Review Committee review Required IUP – Interim Use Permit	For any of the above, a CUP may or may not be required per <i>Section 6.7.3 D &amp; E of this Ordinance</i> . <sup>1</sup> An IUP shall be required for new or re-establishment of animal feedlots in the R-5 zoning district outside of shoreland when the provisions of <i>Section 6.7.6 of this Ordinance</i> are not met as approved by <i>Section 4.9 of this Ordinance</i> . <sup>2</sup> For shoreland overlay district exceptions, see <i>Section 6.7.3 C and 6.7.3 D (1) of this Ordinance</i> . <sup>3</sup> Must meet AUD provisions of <i>Section 6.7.6 of this Ordinance</i> .							

- (1) **New animal feedlots with less than ten (10) animal units** are allowed to construct, establish or operate in shoreland, provided a county animal feedlot permit is granted. In addition, an Interim Use Permit may be required based on the following:

Permit Requirements for New Animal Feedlots in Shoreland with less than 10 AU								
Animal Units	Primary Zoning District							
	A-160 & A-80	A-40	T-20	R-20 & R-10	R-5	R-1 & EE	Urban Expansion	All other zoning
<b>0.003 – 9.99 Animal Units</b>	CSF	CSF	CSF, IUP, AUD <sup>1</sup>	CSF, IUP, AUD <sup>1</sup>	CSF & IUP, AUD <sup>1</sup>	CSF, AUD <sup>1</sup>	CSF & IUP, AUD <sup>1</sup>	New Prohibited
AU – Animal Unit AUD – Animal Unit Density CSF – County Construction Short-form Permit or County Interim Feedlot Permit IUP – Interim Use Permit	<sup>1</sup> Must meet AUD provisions of <i>Section 6.7.6 of this Ordinance</i> .							

- (2) **Moving Fences.** Moving permanent or temporary fences to relocate or expand an existing animal feedlot shall be considered a modification and a permit shall be required pursuant to the provisions of this Ordinance, except a one-time expansion of not more than ten (10) percent of the existing lot area may be allowed without a permit provided that the expansion does not create a pollution potential, setbacks according to *Section 6.7.5 D of this Ordinance* are met, and animal units are not increased at the animal feedlot.
- (3) **Portable Livestock Hutches.** Individual county construction short-form permits, interim permits, interim use permits or conditional use permits shall not be required for portable livestock hutches of less than four hundred thirty-three (433) square feet, which may include an attached open lot equal in size to the livestock hutch, provided that the expansion does not create a pollution potential, setbacks according to *Section 6.7.5 D of this Ordinance* are met, and animal units are not increased at the animal feedlot. Portable livestock hutches shall be

considered a part of the overall animal feedlot operation and shall meet all applicable setback requirements of this Ordinance.

- (4) **Concrete Open Lots.** Individual construction short-form permits shall not be required for converting one (1) acre or less of an existing earthen open lot to concrete.
- (5) **Short-term Manure Stockpiles.** Individual county construction short-form permits or conditional use permits shall not be required for short-term manure stockpiles where the manure is utilized as fertilizer.
- (6) **Signage.** Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

E. **Conditional Use Permits or review by Feedlot Review Committee,** subject to the administrative requirements of *Section 4.8 of this Ordinance*, shall be required for animal feedlots based on the table in *Section 6.7.3 D of this Ordinance* and based on the following conditions:

- (1) **Shoreland.** Expansions or modifications to existing animal feedlots and existing manure storage areas, structures or facilities within 300 feet of a lake classified as Shoreland in the Shoreland Overlay District or within 100 feet of a River or Stream classified as Shoreland in the Shoreland Overlay District shall only be permitted as a conditional use according to *Minnesota Rules, part 6120.3300, subpart 7* and *Minnesota Rules, part 7020.2005, subpart 2; or successor rules*, except as provided in *Section 6.7.3 D (3) or 6.7.3 E of this Ordinance*. An increase in animal units to an animal feedlot in the Shoreland Overlay District shall only be permitted as a conditional use. Expansions or modifications to an animal feedlot partially located in shoreland shall not require a conditional use permit if the proposed expansion or modification is located completely outside of Shoreland.
- (2) **Urban Expansion District.** A conditional use permit shall be required for modification or expansion of an existing animal feedlot where the cumulative number of animal units is ten (10) or more except as provided in an approved orderly annexation agreement.
- (3) **Within 1,000 feet of City Limits.** Construction, modifications or expansions to existing animal feedlots where the cumulative number of animal units exceeds three hundred (300) and proposed within 1,000 feet of the corporate limits of any city shall only be permitted as a conditional use except as provided by an agreement between the County and the affected City.
- (4) A conditional use permit or review by the Feedlot Review Committee shall not be required for:
  - (a) Modifications that improve manure management when the improvement is not located within 300 feet of a lake classified as Shoreland in the Shoreland Overlay District or within 100 feet of a River or Stream classified as Shoreland in the Shoreland Overlay District and when the number of animal units is not increased or when animal type is not changed.
  - (b) Construction, expansion or modification of an animal feedlot in shoreland with less than ten (10) animal units.

- (c) Modifications that consist of a permanent manure stockpile only associated with in-vessel mortality composter(s) when there is a written stockpile plan, approved by the Department, for composting which includes the expected 60-day bulking agent volume required for normal facility mortality rates, the stockpile is not proposed to exceed the expected 60-day volume, and the stockpile is not located within 300 feet of a lake classified as Shoreland in the Shoreland Overlay District or within 100 feet of a River or Stream classified as Shoreland in the Shoreland Overlay District, the number of animal units is not increased and the animal type is not changed.
  - (d) Composting facilities for animal mortalities located at an animal feedlot where the facility is not located within 300 feet of a lake classified as Shoreland in the Shoreland Overlay District or within 100 feet of a River or Stream classified as Shoreland in the Shoreland Overlay District, and setbacks are met according to *Section 6.7.5 D of this Ordinance*.
  - (e) A replacement of an animal feedlot in an agricultural zoning district when not located within 300 feet of a lake classified as Shoreland in the Shoreland Overlay District or within 100 feet of a River or Stream classified as Shoreland in the Shoreland Overlay District, the number of animal units is not increased and the animal type is not changed.
  - (f) An animal feedlot expanding open lot area which meets the requirements of *Section 6.7.3 D (2) of this Ordinance*.
  - (g) Animal feedlots required to obtain an animal feedlot permit from a State or Federal agency except as required by *Section 6.7.3 E (1), (2) or (3) of this Ordinance*.
- F. **County Interim Permit.** County interim permits shall allow the animal feedlot owner or operator up to twenty-four (24) months to correct pollution hazards for an individual site. Interim permits may be extended by no more than twenty-four (24) months if the animal feedlot owner or operator requests an extension from the Department prior to the expiration date of the original interim permit.
- G. **County Construction Short-form Permits.** County construction short-form permits shall allow the animal feedlot owner or operator up to twenty-four (24) months to construct buildings; manure storage areas, structures, or facilities and other related facilities. Feedlot construction short-form permits may be extended by no more than twenty-four (24) months if work has not been completed and if the animal feedlot owner or operator requests an extension from the Department before the expiration date of the original feedlot construction short-form permit.

#### 6.7.4 County Permit Application Requirements and Procedures

- A. Permit applications shall be processed in accordance with *Minnesota Rules, part 7020.0505; or successor rules* and the provisions of this Ordinance.
- B. When any application is submitted to the Department for review, the application information shall include, but not be limited to, the following:

- (1) A completed permit application form listing the names, addresses and phone numbers of all owners and signed by at least one of the owners;
- (2) A map or aerial photograph showing the location of all wells, buildings, surface drainage tile inlets, roads, public waters, public waters wetlands, wetlands type 3, 4 and 5 and watercourses within one thousand (1,000) feet of the proposed animal feedlot;
- (3) When applicable, township approval shall be required for the construction of animal feedlots.
- (4) A manure management plan, if required for submittal, shall include all information in *Section 6.7.9 C of this Ordinance* and shall be approved by the Department.
- (5) Construction inspection and design plans for new manure storage areas, structures, or facilities or modifications or expansions to existing manure storage areas, structures or facilities;
- (6) An odor management plan may be required for animal feedlots. If required, the plan shall be submitted to the Department for review by the Department or the MPCA. The odor management plan shall contain management methods that will significantly reduce odor leaving the animal feedlot, manure storage area, structure or facility and manure application sites.
- (7) A dead animal disposal plan, as specified in *Section 6.7.12 of this Ordinance*;
- (8) A written biosecurity plan, if developed by the animal feedlot owner or operator; and
- (9) Submittal of any other additional information to facilitate processing of the application.

#### **6.7.5 Setback Provisions**

- A. **Residential Setbacks.** A new residential dwelling unit shall be setback a minimum distance of seven hundred (700) feet from an animal feedlot consisting of ten (10) or more animal units when the animal feedlot is located in an A-160, A-80 or A-40 underlying or primary zoning district. This setback may also apply within cities which have entered into an agreement with the County regarding feedlot setbacks.
- B. **Residential Subdivisions or Divisions.**
  - (1) **New Residential Subdivision or Parcel.** The boundary of any new lot, parcel or tract, where the intended use is for a residential dwelling site, shall be located such that any proposed residential dwelling unit is located at least seven hundred (700) feet from any animal feedlot consisting of ten (10) or more animal units when the animal feedlot is located in an A-160, A-80 or A-40 zoning district.
  - (2) **Animal Feedlot to Vacant Residential Platted Lot or Building Envelope.** In the A-160, A-80, A-40 and Urban Expansion zoning districts, proposed construction or modification of an animal feedlot shall be located a minimum distance of seven hundred (700) feet from any platted lot line intended for residential dwelling, unless a building envelope has been designated, that is in existence at the time of application, (including those within cities which have entered into an

agreement with the County regarding feedlot setbacks), except as provided for in *Sections 5.1.4 and 6.7.5 B (3) of this Ordinance or an approved annexation agreement*. Alternatively, the seven hundred (700) foot setback will be applied to the buildable areas of the lot when a valid wetland determination approved by the Stearns County Environmental Services Department exists for the lot, which makes portions of the lot unbuildable.

- (3) **Animal Feedlot to Residential Dwelling in Plat.** The residential dwelling Setback for any proposed construction or modification of an animal feedlot in the A-160, A-80, A-40 and Urban Expansion zoning district shall be a minimum of seven hundred (700) feet upon establishment of residential dwelling unit(s) on any potentially affected lot(s) within a plat (including those within cities which have entered into an agreement with the County regarding feedlot setbacks), except as provided for in *Section 5.1.4 of this Ordinance* or an approved orderly annexation agreement.
- (4) **Administrative Subdivision.** In the A-160, A-80, A-40 and Urban Expansion zoning districts, proposed construction or modification of an animal feedlot shall be located a minimum distance of seven hundred (700) feet from any administrative subdivision lot line intended for residential dwelling, except as provided for in *Section 5.1.4 and 6.7.5 B (3) of this Ordinance*, unless a building envelope has been designated, for which the seven hundred (700) foot setback will be applied.
- C. **Rezoned Property.** Property that is rezoned from any A-160, A-80 or A-40 District to any R-10, R-5, R-1 or RT District shall only be approved if residential dwelling units constructed thereon can be located at least seven hundred (700) feet from any animal feedlot consisting of ten (10) or more animal units when the animal feedlot is located in an A-160, A-80 or A-40 zoning district. This setback may also apply within cities which have entered into an agreement with the County regarding feedlot setbacks.
- D. **Animal Feedlot Setbacks.** For animal feedlots with ten (10) or more animal units located in an Agricultural, Transitional or Urban Expansion zoning district, the following shall be the minimum setback requirements for construction, replacement, expansion or modification including a manure storage area, structure or facility except as provided in *Sections 5.1.4 and 6.7.5 D (2) of this Ordinance, an orderly annexation agreement and Minnesota Rules, part 6120.3300, subpart 7; or successor rules:*

<b>Animal Feedlot Setback Measured From:</b>	<b>Distance (ft):</b>
Public Parks (not including trails), Recreational Camping Areas or other similar public uses <sup>1,7</sup>	1000
Cities (official boundaries) <sup>8</sup>	1000
Churches, Schools or FAA approved Airports <sup>1,7</sup>	1000
Shoreland (Lake, Stream or River <sup>2</sup> ) – RA Animal Feedlot	Prohibited <sup>3</sup>
Shoreland Lake <sup>2</sup> – RB Animal Feedlot	1000
Shoreland Stream or River <sup>2</sup> – RB Animal Feedlot	300
Stream, River or Ditch OHWL (Not classified as Shoreland <sup>2</sup> )	100

<b>Animal Feedlot Setback Measured From:</b>	<b>Distance (ft):</b>
PWI Wetland or Basin OHWL (Not classified as Shoreland) <sup>4</sup> (PWI is the Minnesota Department of Natural Resources Public Waters Inventory)	500
Wetland types 3, 4 and 5 not on the PWI <sup>4,5</sup>	200
Floodplain (New Animal Feedlots or Replacements or Expansions)	Prohibited
Property lines	50
Non-Agricultural District Boundary <sup>7</sup>	350
Residential Dwelling, not on the same parcel as the Animal Feedlot <sup>1,6,7</sup>	700
Platted Lot Line (without establishment of a dwelling) <sup>7,9</sup>	700
Roads	See chart below

<b>Road Classification</b>	<b>Setback from Road Centerline</b>	<b>Setback from Road Right-of-Way (R.O.W.)</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline</b>	<b>Setback from Road Right-of-Way (R.O.W.)</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30

<sup>1</sup> The Setback shall be reciprocal.

<sup>2</sup> Shoreland classification as determined by Section 10.2.3 of this Ordinance.

<sup>3</sup> Except as allowed by Minnesota Statute 116.0711; or successor statutes and Section 6.7.3 C of this Ordinance.

<sup>4</sup> The setback may be reduced whenever the waters or wetlands involved are bounded by topographic divides which extend landward from the waters or wetlands for a distance less than the prescribed if minimum structural setbacks are met. Additionally, the Department may reduce the setback when best management practices are being implemented as a part of a plan approved by the Stearns County Environmental Services Department.

<sup>5</sup> Animal feedlots shall meet the minimum structural setbacks from OHWL and bluff in Section 10.2.11 A(1) and (4) of this ordinance.

<sup>6</sup> A one-time 24-foot encroachment may be allowed. See Sections 5.1.2A (3) and 5.1.4 of this Ordinance.

<sup>7</sup> This setback may also apply within cities which have entered into an agreement with the County regarding feedlot setbacks.

<sup>8</sup> Excluding cities which have entered into an agreement with the County regarding feedlot setbacks.

<sup>9</sup> Except as otherwise allowed in Section 6.7.5B of this Ordinance.

- (1) In instances where setback distances conflict, the more restrictive setback shall apply.
- (2) **Short-term manure stockpiles.** Short-term manure stockpile sites shall be required to meet setbacks as provided in *Section 6.7.5 D of this Ordinance* except for property line setbacks and, if exempted in writing by the affected landowner, manure may be stockpiled within 700 feet of a residence. This section shall not preclude an animal feedlot owner or operator from stockpiling manure within or directly adjacent to an animal feedlot. Where allowed, short-term manure stockpile sites shall



be required to meet a minimum setback of ten (10) feet from a property line.

- (3) Setbacks may be reduced for filter strips, pump houses, settling basins, or other structures not storing manure provided, minimum Setbacks for the OWHL and bluff in *Section 10.2.11 A(1) and (4) of this Ordinance* are met. Sunny-day release pits shall meet Setbacks.
  - (4) **Portable livestock structures.** All portable livestock structures and connected open lots are required to meet setbacks unless the Animal Feedlot is less than ten (10) animal units. Any portable livestock structure and connected open lot associated with an Animal Feedlot with less than ten (10) animal units shall meet the setback requirements as provided in *Section 9 of this Ordinance*.
- E. Animal feedlots, including open lots and manure storage areas, with less than ten (10) animal units in shoreland shall:
- (1) Meet the road setback requirements as provided in *Section 6.7.5 D of this Ordinance*;
  - (2) Meet the minimum structural setbacks from OHWL and bluff in *Section 10.2.11 A(1) and (4) of this ordinance*; and
  - (3) Meet a setback of ten (10) feet from property line.
- F. **Water well setbacks.** Animal feedlot owners or operators shall adhere to the water supply well isolation distances set forth by *Minnesota Rules, part 4725.4450* and *Minnesota Rules, part 7020.2005*; or successor rules.
- G. **Manure application setbacks** shall be as follows and according to *Minnesota Rules, part 7020.2225*; or successor rules unless further restricted by a wellhead protection plan. Manure application setbacks not specified in *Minnesota Rules, part 7020.2225*; or successor rules may be reduced or modified by a manure management plan reviewed and approved by the Department.

PHYSICAL FEATURE	Irrigation	WINTER SETBACKS Frozen or Snow Covered Soils	NON-WINTER SETBACKS Not Incorporated Within 24 Hours		NON-WINTER SETBACKS Incorporation Within 24 Hours	
			Inadequate Vegetated Buffer	With Vegetated Buffer	No Phosphorus Mgmt.	With Phosphorus Mgmt.
Lake or Stream	300'	300'	300'	100'	300'	25'
Intermittent Stream <sup>1</sup>						
DNR Protected Wetland <sup>2</sup>	200'	300'	300'	50'	300'	25'
Drainage Ditch Without Berms <sup>1</sup>						
Open Tile Intake	300'	300'	300'		0'	
Well, Mine or Quarry <sup>3</sup>	100'	50'	50'		50'	
Floodplain	Prohibited	Prohibited	Prohibited		Prohibited	
City Limits	1 mile	-	-		-	
Structure <sup>4</sup> within City Limits or Active Cemetery	-	1000' <sup>4</sup>	1000' <sup>4</sup>		400' unless immediate incorporation, then property line' <sup>4</sup>	

Residential Dwelling (other than residences owned by the Animal Feedlot operator or Owner)				
<i>Non-agricultural district</i>	1000'	400'	400'	50'
<i>Agricultural zoned district</i>	1000'	property line <sup>3</sup>	property line <sup>3</sup>	property line <sup>3</sup>
Public Roads (ROW line) <sup>5</sup>	5	5	5	5

<sup>1</sup> Intermittent streams and ditches pertain to those identified on United States Geological Survey quadrangle maps, excluding drainage ditches with berms that protect from runoff into the ditch and segments or intermittent streams which are grassed waterways.

<sup>2</sup> Wetland setbacks pertain to all protected wetlands identified on Minnesota Department of Natural Resources protected waters and wetland maps.

<sup>3</sup> This provision shall not supersede the water well setbacks in Section 6.7.5 F of this Ordinance or the manure application setbacks in Section 6.7.5 G of this Ordinance.

<sup>4</sup> A structure means a building occupied by one or more persons (ie. hospital, school, church, dwelling or park building, eating establishments etc).

<sup>5</sup> Manure may be applied up to the ROW unless environmental conditions indicate potential pollution hazards or unless other setbacks apply.

- (1) In instances where setback distances conflict, the more restrictive setback shall apply.
- (2) Manure application within ¼ mile (1320 feet) of a FAA approved airport shall be injected or incorporated within twenty-four (24) hours.
- (3) Manure shall not be applied directly into gullies, grass waterways or ditches.
- (4) Application of manure to frozen or snow-covered soils shall be applied to slopes less than seven (7) percent unless runoff is prevented from reaching a water of the state as defined by *Minnesota Rules, part 7020.0300; or successor rules.*

#### **6.7.6 Animal Unit Density Requirements.**

A. The following animal density regulations shall apply in the Urban Expansion zoning district in which a parcel is less than ten (10) acres, except as provided for in *Section 5.1.4 E of this Ordinance* or an orderly annexation agreement:

- (1) Parcels with at least one (1) acre shall be allowed up to 15 head of chickens.
  - (a) Chickens must be provided with a shelter and an open lot area.
  - (b) Free range or pastured poultry are considered feedlot.
  - (c) Roosters are prohibited.
- (2) On parcels of at least two (2) acres but less than five (5) acres, one (1) animal unit may be permitted.
- (3) On parcels of at least five (5) acres, two (2) animal units may be permitted, and one (1) additional animal unit may be permitted for each additional two (2) acres to a maximum of 9.9 animal units when the parcel is located in an Urban Expansion zoning district.

**Urban Expansion Zoning District**  
**Acres / Animal Unit Density (AUD)**

Acres	1-1.99	2 – 4.99	5 – 6.99	7 – 8.99	9 – 9.99	11 – 12.99	13 – 14.99	15 – 16.99	17 – 19.99	19 or >
AUD	Chickens	1	2	3	4	5	6	7	8	9.9

B. The following animal density regulations shall apply in the Agricultural zoning districts in which a parcel is less than ten (10) acres, except as provided for in *Section 5.1.4 F of this Ordinance*:

- (1) Parcels with at least one (1) acre shall be allowed up to 0.3 animal units.
  - (a) Chickens must be provided with a shelter and an open lot area.
  - (b) Free range or pastured poultry are considered feedlot.
  - (c) Roosters are prohibited.
- (2) On parcels of at least two (2) acres, but less than five (5) acres, one (1) animal unit is permitted and one (1) additional animal unit may be permitted for each additional one (1) acre to a maximum of 4 animal units.

Ag Zoning District Acres / Animal Unit Density (AUD)									
Acres	1-1.99	2 – 2.99	3 – 4.99	5 – 6.99	7 – 8.99	9 – 9.99			
AUD	0.3	1	1	2	3	4			

C. The following animal density regulations shall apply in the T-20, R-20 and R-10 zoning districts, except as provided for in *Sections 6.7.2 B or 5.1.4 E (2) of this Ordinance*:

- (1) Parcels with at least one (1) acre shall be allowed up to 18 head of chickens.
  - (a) Chickens must be provided with a shelter and an open lot area.
  - (b) Free range or pastured poultry are considered feedlot.
  - (c) Roosters are prohibited.
- (2) On parcels of at least two (2) acres but less than five (5) acres, only one (1) animal unit may be permitted.
- (3) On parcels of at least five (5) acres, only one (1) additional animal unit may be permitted for each additional two (2) acres to a maximum of forty-nine (49) animal units when the parcel is located in a T-20 zoning district.
- (4) On parcels of at least five (5) acres, one (1) additional animal unit may be permitted for each additional two (2) acres to a maximum of six (6) animal units when the parcel is located in an R-20 or R-10 zoning district.

T-20 Zoning District Acres / Animal Unit Density (AUD)									
Acres	1-1.99	2 – 4.99	5 – 6.99	7 – 8.99	9 – 10.99	11 – 12.99	13 – 14.99	15 – 16.99	17 – 19.99
AUD	Chickens	1	2	3	4	5	6	7	8

Acres	19 – 20.99	21 – 22.99	23 – 24.99	25 – 26.99	27 – 28.99	29 – 30.99	31 – 32.99	33 – 34.99	35 – 36.99
AUD	9	10	11	12	13	14	15	16	17
Acres	37 – 38.99	39 – 40.99	41 – 42.99	43 – 44.99	45 – 46.99	47 – 48.99	49 – 50.99	51 – 52.99	53 – 54.99
AUD	18	19	20	21	22	23	24	25	26
Acres	55 – 56.99	57 – 58.99	59 – 60.99	61 – 62.99	63 – 64.99	65 – 66.99	67 – 68.99	69 – 70.99	71 – 72.99
AUD	27	28	29	30	31	32	33	34	35
Acres	73 – 74.99	75 – 76.99	77 – 78.99	79 – 80.99	81 – 82.99	83 – 82.99	85 – 86.99	87 – 88.99	89 – 90.99
AUD	36	37	38	39	40	41	42	43	44
Acres	91 – 92.99	93 – 94.99	95 – 96.99	97 – 98.99	99 or >				
AUD	45	46	47	48	49				
<b>R-20 or R-10 Zoning District</b> <b>Acres / Animal Unit Density (AUD)</b>									
Acres	1-1.99	2 – 4.99	5 – 6.99	7 – 8.99	9 – 10.99	11 – 12.99	13 or >		
AUD	Chickens	1	2	3	4	5	6		

- D. The following shall apply in the R-5, R-1 and Ecclesiastical/Educational zoning districts in which a parcel is at least one (1) acre:
- (1) In the R-5 zoning district, parcels with at least one (1) acre shall be allowed up to 15 head of chickens. An additional one (1) head of chicken will be allowed with each additional quarter (0.25) acre, up to and including 5 acres, for a maximum of 31 head of chickens.
  - (2) In the R-1 and EE zoning districts, up to twelve (12) head of chickens shall be allowed.
  - (3) Landowners with more than one parcel within the R-5, R-1 or EE districts shall only be allowed chickens on one parcel.
  - (4) The setback requirements of *Section 9 of this Ordinance* must be met.
  - (5) Chickens must be provided with a shelter and an open lot area.
  - (6) No free range or pasture allowed.
  - (7) Roosters are prohibited.

#### 6.7.7 Inspections

- A. **Conducting Inspections.** The Department shall be responsible for conducting review, compliance and complaint inspections.
- (1) The Department shall contact the animal feedlot owner or operator prior to conducting field work on an animal feedlot.
  - (2) If, at the time of contact by the Department, the animal feedlot is infected with any contagious disease, it shall be the duty of the animal feedlot owner or operator to notify the Department.
- B. **Biosecurity Guidelines.** Department staff shall carry out inspections within the biosecurity guidelines established by the animal feedlot owner or operator. A copy of any written biosecurity guidelines shall be submitted by the animal feedlot owner or operator to the Department and will be kept on file by the Department.

- C. **Complaint Inspections.** The Department shall have the right to conduct complaint inspections without notice, but at a reasonable time, based upon a complaint or the reasonable belief of the existence of a violation of this Ordinance or *Minnesota Rules, chapter 7020; or successor rules.*

#### 6.7.8 Manure Storage

- A. **Manure Storage Area Design.** Plans for any Manure Storage Areas shall be reviewed by the Department or the MPCA as part of the permitting process as set forth in *Sections 6.7.3, 6.7.4 and 6.7.7 of this Ordinance* and pursuant to *Minnesota Rules, part 7020.2100; or successor rules.*
- B. **New open air swine basins.** New open air swine basins are not allowed according to *Minnesota Statutes, section 116.0714; or successor statutes,* except that existing facilities may use one (1) basin of less than one million (1,000,000) gallons as part of a permitted waste treatment program for resolving pollution problems. In addition, any expansion or modification to existing animal feedlots involving swine and proposing reuse of an open air swine basin shall be prohibited.

#### 6.7.9 Manure Management Planning

- A. **Manure management plans.** Manure management plans, as required in *Minnesota Rules, part 7020.2225, subpart 4; or successor rules,* shall be based on *MPCA Manure Application Guidelines; or successor guidelines, United States Department of Agriculture – Natural Resources Conservation Service Waste Utilization Code 633; or successor codes, or equivalent* and shall be submitted upon request of the Department or with a permit application to the Department according to the following table:

Type of Permit	Manure Management Plan Submittal Requirements				
	1 to 10 Animal Units:	11 to 99 Animal Units:	100 to 299 Animal Units:	300 to 999 Animal Units:	1,000 or more Animal Units:
Construction Short Form Permit	Upon request	Upon request	Upon request	<b>Must submit</b>	<b>Must submit</b>
Interim Permit	Upon request	Upon request	<b>Must submit</b>	<b>Must submit</b>	<b>Must submit</b>
Conditional Use Permit	Upon request	Upon request	Upon request	<b>Must submit</b>	<b>Must submit</b>
National Pollutant Discharge Elimination System Permit or State Disposal System Permit	Upon request	Upon request	Upon request	<b>Must submit</b>	<b>Must submit</b>

- B. **Manure Management Plan Review.** The Department as part of the permitting process shall review and approve plans for manure management unless the MPCA is conducting a review and approval. The Feedlot Review Committee may further review manure management plans for conditional use permits.

#### 6.7.10 Closure and Abandonment

- A. Owners or operators of abandoned or closed animal feedlots shall have all liability for clean up, closure or remediation of the animal feedlot site.

- B. Owners or operators proposing to close a liquid manure storage area or permanent stockpile shall notify the Department at least three (3) days prior to commencing closure.
- C. Concrete from manure storage areas, structures or facilities, feed bunkers, barns or buildings that are part of an animal feedlot shall be disposed of in accordance with *Stearns County Ordinance Number 431 Section 11*.

#### **6.7.11 Unregistration**

The following process shall be implemented for unregistration of existing, registered Animal Feedlots:

- A. A request to unregister an existing, registered animal feedlot shall be made in writing by the property owner on a form provided by the Department.
- B. A property owner proposing to unregister an existing, registered animal feedlot shall first meet the closure and abandonment requirements of *Minnesota Rules, part 7020.2025; or successor rules, and Section 6.7.10 of this Ordinance*.
- C. Department staff may conduct a site visit to determine the status of the animal feedlot and to verify if the closure and abandonment requirements of *Minnesota Rules, part 7020.2025; or successor rules, Section 6.7.10 of this Ordinance and Section 6.7.11 of this Ordinance* have been met prior to unregistration.
- D. The unregistration form and related documents shall be recorded in the office of the Stearns County Recorder for the property subject to the unregistration.
- E. An existing, registered animal feedlot shall be considered unregistered the date that the unregistration form is recorded by the Stearns County Recorder's Office.
- F. Property owners proposing to repopulate an unregistered animal feedlot shall:
  - (1) Be subject to the provisions of *Section 4.9 of this Ordinance* if applicable Setbacks set forth in *Section 6.7.5 of this Ordinance* cannot be met.
  - (2) Be required to obtain the appropriate permit(s) and shall operate the animal feedlot in accordance with this Ordinance and applicable State Rules and Regulations.
- G. Except as provided in *Minnesota Statutes, section 116.0711; or successor statutes*, property owners proposing to repopulate an animal feedlot that is considered a RA animal feedlot shall:
  - (1) Be subject to the provisions of *Section 4.9 of this Ordinance* if applicable requirements set forth in *Sections 6.7.5 and 6.7.6 of this Ordinance* cannot be met;
  - (2) Be required to obtain the appropriate permit(s); and
  - (3) Shall operate the animal feedlot in accordance with this Ordinance and all other applicable Federal, State and local rules and regulations.

#### **6.7.12 Disposal of Animal Carcasses**

Animal carcasses, whole, partial or ground up shall not be disposed of in a manure storage area, structure or facility or on the surface of the land, except as

allowed for composting in accordance with *Minnesota Rules, chapter 1719; or successor rules*. Upon request, the animal feedlot owner or operator shall provide a plan indicating the method to be used for the disposal of animal carcasses.

- A. The plan for dead animal disposal, composting, burial or rendering shall be consistent with the Minnesota Board of Animal Health regulations found in *Minnesota Rules, chapter 1719; or successor rules, and Section 6.7 and 6.29 of this Ordinance*.
- B. A site plan shall identify the composting site or burial area, distance to neighboring residential dwellings, wells, lakes and watercourses and the distances to ground water and/or bedrock.
- C. All dead animal disposal sites shall be operated at all times to prevent pollution of the air, land and water resources of the County and in a manner which limits odors, precludes scavenging and controls vectors.

#### **6.7.13 Catastrophic Loss of Animals**

It shall be the duty of any animal feedlot owner or operator to notify the Environmental Services Department and the Minnesota Board of Animal Health immediately in the event of a catastrophic loss of animals from fire, natural disaster or disease.

#### **6.7.14 Manure Spills**

- A. **Release of Manure.** It shall be the duty of any animal feedlot owner or operator to notify the Environmental Services Department and the State Duty Officer within twenty-four (24) hours in the event of a release of manure from any manure storage area, structure or facility or when it appears that the spillage or application of manure could reasonably be expected to cause contamination of surface or ground water supplies.
- B. **Roadway Cleanup.** The owner or operator of an animal feedlot who spills manure on a Federal, State or County road shall be responsible for cleaning the roadway as soon as practical after a spill to ensure the safe passage of traffic. If the owner or operator of an animal feedlot does not clean the roadway in a timely manner, the County's Public Works Department may clean the roadway with their own equipment and assess the animal feedlot owner or operator for their services.
- C. **Cleanup Cost.** If the cost of cleanup is not paid, the County Board may certify to the County Auditor-Treasurer by November 30 all unpaid, outstanding costs of cleanup, including staff costs, costs of operating machinery and materials needed to complete a cleanup and a description of the lands against which the costs arose. It shall be the duty of the County Auditor-Treasurer, upon order of the County Board, to extend the assessments with interest not to exceed the interest rate provided for in *Minnesota Statutes, section 279.03, Subd. 1; or successor statutes*, upon the tax roles of the County for the taxes of the year in which the assessment is filed. For each year ending November 30, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The

assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.

## **6.8 Aquaculture**

- 6.8.1** All aquaculture operations shall comply with the standards set forth in *Minnesota Statutes, sections 17.46 to 17.4999; or successor statutes.*
- 6.8.2** Aquaculture operations shall be licensed by the State according to *Minnesota Rules, part 7050.0216; or successor rules.*
- 6.8.3** In order to protect surface and ground water resources, aquaculture operations may be required to include wastewater treatment or to be closed loop systems with no discharge.

## **6.9 Attached Single Family Residential Dwellings**

### **6.9.1 Performance Standards**

Attached single family dwellings shall comply with the following standards:

- A. The building shall contain no more than four (4) dwelling units.
- B. The building shall meet the setback and height requirements of any applicable zoning district.
- C. Attached single family residential dwellings shall be generally compatible with the surrounding land uses in scale and appearance.
- D. On-site sewage treatment systems shall be sized to accommodate each unit within a building with a single subsurface sewage treatment system. Additionally, each building shall be provided with an additional subsurface sewage treatment system area which shall be retained in a natural and undisturbed condition.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance.*

## **6.10 Bed and Breakfast Inns**

### **6.10.1 Performance Standards**

Bed and Breakfast Inns shall comply with the following standards:

- A. A bed and breakfast inn shall be part of an owner-occupied residential structure, except that one (1) guestroom may be located outside the owner occupied structure.
- B. The use shall comply with all applicable Federal, State and County rules and regulations.
- C. The bed and breakfast inn shall be owner-operated.
- D. The exterior appearance of the structure shall not be altered from its single family character.
- E. All guestrooms, except as provided in *Section 6.10.1 A of this Ordinance*, shall be located within the principal residential structure.
- F. The total number of guestrooms shall be limited to five (5).



- G. Primary entrance to all guestrooms shall be from within the dwelling.
- H. A guest register shall be maintained and available for County inspection.
- I. Guests are limited to a length of stay of no more than fourteen (14) consecutive days.
- J. No food preparation or cooking shall be conducted within any of the guestrooms.
- K. Food service shall be limited to breakfast.
- L. No other commercial use shall occur on the property, including home occupations. Activities including luncheons, banquets, parties, weddings, meetings, fund raising events or other gatherings for direct or indirect compensation are prohibited in a bed and breakfast inn.
- M. Parking shall be accommodated on the property and parking requirements for guests are in addition to those required for the principal residential use. Additionally, parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.10.2 License Required**

A Bed and Breakfast Inn shall be licensed by the County and shall meet the requirements of *Stearns County Ordinances Numbers 224 and 204; or successor ordinances*.

### **6.11 Biofuel Processing, Distillation or Refining**

#### **6.11.1 Performance Standards.** A Biofuel Processing, Distillation or Refining operation shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- C. Adequate wastewater and drinking water facilities shall be provided.
- D. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear or side of the primary structure. When the adjacent use is not industrial, storage areas shall be fenced and adequately screened from adjacent land uses and public roadways in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
- E. A transportation management plan shall be submitted to address off-street parking, loading and unloading, internal circulation, traffic control and the impact of the facility on surrounding roadways. The transportation management plan shall include estimates of the number and type of vehicles using the parcel daily and monthly, the times of day when the highest and lowest number of vehicles will be present and other information deemed relevant to assess potential transportation impacts.
- F. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-

site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.

- G. The use shall not pose a pollution potential hazard.
- H. Soils shall be adequate to accommodate the proposed use. The use is not allowed in floodplains.
- I. A materials management plan shall be submitted to address storage, handling, use and potential hazards associated with hazardous materials.
- J. An emergency management plan shall be submitted to address preparedness for, and planned response to, emergency situations likely to be posed by the use.
- K. Parking shall meet the requirements of *Section 7.19 of this Ordinance*. All parking areas, turning areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
- L. Any exterior lighting shall comply with *Section 7.15 of this Ordinance*.
- M. The hours of operation shall not have an adverse impact on adjacent property owners.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- O. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation.

## 6.12 Cemeteries

### 6.12.1 Performance standards

A cemetery shall be subject to the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. Burial plots, grave markers, monuments and building shall meet the building and setback requirements of any applicable zoning district.
- C. Grave sites and structures used for burial or entombment shall be setback fifty (50) feet from wells or surface water bodies.
- D. Cemeteries are prohibited below the regulatory flood protection elevation as defined in *Section 10.1.4 of this Ordinance*.
- E. Crematoria are prohibited.
- F. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- G. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

## 6.13 Churches

### 6.13.1 Performance standards

A church shall be subject to the following standards:

- A. The facility shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

- D. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- E. The grounds and all structures shall be maintained in a clean and safe manner.
- F. To the extent possible, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.
- G. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- H. All accessory residential, school or day care uses shall be subject to the provisions of this Ordinance.

## **6.14 Community Buildings**

### **6.14.1 Performance standards**

A community building shall be subject to the following standards:

- A. Community buildings shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The buildings and parking areas shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- D. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- E. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- F. The grounds and all structures shall be maintained in a clean and safe manner.
- G. To the extent possible, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.15 Concrete (Ready Mix) or Asphalt Mixing Facility**

**6.15.1 Performance Standards.** A Concrete or Asphalt Mixing Facility shall be subject to the administrative requirements of *Section 4.8 or 4.18 of this Ordinance* and subject to the following performance standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.

- B. The parcel shall have a lot area of no less than two (2) acres in agricultural districts or industrial districts. In other districts where the use is allowed, the parcel shall conform to the lot size requirements of the district.
- C. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. Buildings and processing structures shall at a minimum meet the following setbacks:
  - (1) The processing of mined materials shall not be conducted closer than one hundred (100) feet to the property line, nor closer than five hundred (500) feet to any residential dwelling unit.
  - (2) Unless approved in writing by the applicable road authority, mining of any materials shall not be conducted closer than thirty (30) feet to any property line or within thirty (30) feet of any public road right-of-way.
- E. Outdoor storage areas may be allowed as an accessory use, provided they are located to the rear or side of the parcel. When the adjacent use is not industrial, storage areas shall be fenced and adequately screened from adjacent non-industrial land uses and public roadways in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
- F. A transportation management plan shall be submitted to address off-street parking, loading and unloading, internal circulation, traffic control and the impact of the facility on surrounding roadways. The transportation management plan shall include estimates of the number and type of vehicles using the parcel daily and monthly, the times of day when the highest and lowest number of vehicles will be present and other information deemed relevant to assess potential transportation impacts.
- G. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- H. All parking areas, turning areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
- I. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- J. Any exterior lighting shall comply with *Section 7.15 of this Ordinance*.
- K. All noise, dust, vibration, glare and other nuisances shall comply with *Section 7.18 of this Ordinance*.
- L. All hours of operation shall be established in the permit as approved by the Board.
- M. Signage. An informational sign shall be erected at the intersection of the primary access road and the public road servicing the site, identifying the corporate or personal name(s) of the property owner(s) and telephone number(s) of the property owner, the site operator and the hauling contractor. Signs required by this Section shall be clearly visible from the public road and shall conform to the signage requirements of *Section 7.24 of this Ordinance*.
- N. For those Concrete (Ready Mix) or Asphalt Mixing Facilities permitted as an interim use, a performance surety, payable to the County of Stearns, shall be provided. The permit shall specify the amount and type of surety

required. The surety shall be used to reimburse the County for any monies, labor and/or material expended to bring the operation into compliance with the conditions of the permit. The surety may be used after expiration of the permit and failure to execute a phase of a restoration plan specifically scheduled in the permit or Ordinance. This option may be executed one hundred eighty (180) days after written notice of non-compliance to the applicant.

## **6.16 Contractors Yard**

### **6.16.1 Performance Standards**

A contractors yard shall comply with the following standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class or roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. Buildings, parking areas, loading areas and exterior storage shall meet the setback requirements of this Ordinance.
- C. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- D. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- E. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear of the structure, fenced and adequately screened from adjacent land uses and public roadways in accordance with *Section 7.23 of this Ordinance*.
- F. Off-street parking shall be provided for any non-resident employees.
- G. The outdoor storage of goods, equipment or other materials used for the contractors' yard may be allowed, subject to *Section 6.47 of this Ordinance*.
- H. No more than four (4) employees may be engaged in the conduct of the contractors' yard at any one time on a regular basis. This does not include employees who are on-site only to pick up and drop off equipment and materials.
- I. There may be a maximum of twenty (20) commercially licensed motorized vehicles associated with the Contractors' Yard (including trucks and trailers.)
- J. Crushing and/or screening of gravel, recycled asphalt pavement or recycled concrete shall meet the requirements of *Section 7.17 of this Ordinance*.

## **6.17 Day Care**

### **6.17.1 Performance Standards for a Day Care Center**

A day care center shall comply with the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. For child day care facilities, at least fifty (50) square feet of outside play area shall be provided for each child under care. The play area location and fencing is subject to the licensing requirements of the Stearns County Human Services Department.

- C. For adult day care facilities, at least one hundred fifty (150) square feet of outdoor area for seating or exercise shall be provided for each adult under care.
- D. The grounds and building shall be maintained in a clean and safe manner.
- E. When the day care facility is located in a church or school building originally constructed for use as a church or school, the use shall be treated as an accessory use.
- F. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- G. The building and any exterior fenced areas shall meet the setback standards for a principal building.
- H. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- I. The building, parking areas and play areas shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- J. An off-street passenger loading area shall be provided in order to maintain vehicular and pedestrian safety and meet the requirements of *Section 7.19 of this Ordinance*.

#### **6.17.2 Performance Standards for a Family Day Care**

A family day care shall comply with the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. The building and any exterior fenced areas shall meet the setback standards for a single family residence in the district in which it is located.
- C. The exterior appearance of the structure shall not be altered from its single-family character.
- D. For child day care facilities, at least fifty (50) square feet of outside play area shall be provided for each child under care. The play area location and fencing is subject to the licensing requirements of the Stearns County Human Services Department.
- E. The grounds and building shall be maintained in a clean and safe manner.
- F. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.17.3 Performance Standards for a Group Family Day Care**

A group family day care shall comply with the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. Group Family Day Care shall be licensed under *Minnesota Rules, parts 9502.0315 to 9502.0445; or successor rules*, to serve fourteen (14) or fewer children pursuant to *Minnesota Statutes, section 245A.14; or successor statutes*
- C. The building and any exterior fenced areas shall meet the setback standards for a single family residence in the district in which it is located.
- D. The exterior appearance of the structure shall not be altered from its single-family character.
- E. For child day care facilities, at least fifty (50) square feet of outside play area shall be provided for each child under care. The play area location and

fencing is subject to the licensing requirements of Stearns County Human Services Department.

- F. The grounds and building shall be maintained in a clean and safe manner.
- G. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.17.4 License Required**

A day care center, family day care, or group family day care shall be licensed by the appropriate State and/or County agencies.

### **6.18 Drive-in Business**

#### **6.18.1 Performance Standards**

Drive-in businesses shall be subject to the administrative provisions of *Section 4.8 of this Ordinance* and the following performance standards:

- A. The drive-in function shall be accessory to a conforming restaurant or service facility.
- B. Drive-in businesses shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- C. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- D. The site shall accommodate a car stacking distance of at least six (6) cars without infringing upon the local roadways.
- E. A speaker system, if provided, shall not be audible from any residential parcel.
- F. The drive-in business shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- G. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

### **6.19 Eating and Drinking Establishments**

#### **6.19.1 Performance Standards**

Eating and drinking establishments shall be subject to the following performance standards:

- A. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- B. The use shall comply with all applicable Federal, State and County rules and regulations.
- C. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- D. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- E. All parking areas and access drives to the parking areas shall be durable and dustless.

- F. The building and parking area shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods in accordance with *Section 7.23 of this Ordinance*.
- G. To the extent possible, new construction or additions to existing buildings shall be complementary to and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.19.2 License Required**

Eating and drinking establishments shall be licensed by the County and meet the provisions of *Stearns County Ordinance Number 114; or successor ordinance*.

### **6.20 Gasoline Stations and/or Convenience Stores**

#### **6.20.1 Performance standards**

Gasoline stations and/or convenience stores shall be subject to the administrative provisions of *Section 4.8 of this Ordinance* and the following standards:

- A. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- B. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- C. Buildings, canopies and pump islands shall meet the setback requirements of the applicable zoning district.
- D. A minimum landscape buffer of twenty-five (25) feet in width shall be planted and maintained along all abutting public rights-of-way.
- E. There shall be no hazardous material runoff.
- F. Wherever fuel pumps are installed, pump islands shall be installed.
- G. A transportation management plan shall be submitted to address off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways.
- H. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- I. Only vehicles owned by employees or customers awaiting service are allowed to be parked on site. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- J. The storage of salvage vehicles is prohibited.
- K. Any outdoor lighting system shall be designed so as to prevent any undue light from being directly visible from a public right-of-way or an adjacent residential use and meet the requirements of *Section 7.15 of this Ordinance*.
- L. All areas used for storage or trash disposal shall be fully screened from adjacent land uses and public roadways in accordance of *Section 7.23 and 7.28 of this Ordinance*.
- M. The storage of hazardous materials and/or motor vehicle parts shall be prohibited.



- N. The grounds and all structures shall be maintained in a clean and safe manner.
- O. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.21 Golf Courses**

### **6.21.1 Performance standards**

A golf course shall be subject to the following standards:

- A. Storage of pesticides and fertilizers shall follow the standards of the Minnesota Department of Agriculture. A plan shall be submitted for storage and use of pesticides and fertilizers at the facility.
- B. Accessory uses shall be limited to a driving range, putting greens, pro shop, club house and locker facilities, maintenance buildings, course shelters and cart storage facilities.
- C. Golf courses shall be designed with environmental resources in mind. Performance standards to this effect include:
  - (1) Water recycling and conservation through on-site storage and use facilities;
  - (2) Use of landscaped buffers and other Best Management Practices (BMP's) to minimize fertilizer runoff and other chemicals from entering surface water bodies;
  - (3) Use of landscaping and careful layout of golf course to preserve and enhance wildlife habitat through preservation of existing vegetation and habitat as well as the creation of new habitat opportunities.
- D. A planted buffer may be required to screen adjacent residential and other uses with potential conflicts with golf course activities in accordance with *Section 7.23 of this Ordinance*.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- F. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- G. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- H. A caretaker residence may be allowed. The residence shall be used strictly for the caretaker and his/her family members. The caretaker residence shall be accessed via the access road to the golf course.

### **6.21.2 License Required**

Club houses that serve food and beverages shall be licensed by the County and meet the requirements of *Stearns County Ordinance 114; or successor ordinance*.

## **6.22 Government Administration and Service Buildings**

### **6.22.1 Performance Standards**

A government administration or service building shall be subject to the following provisions:

- A. The parcel shall have a lot area no less than four (4) times the area of the building footprint.

- B. The building and parking areas shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- C. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- D. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- E. The grounds and all structures shall be maintained in a clean and safe manner.
- F. To the extent possible, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings, and the exterior materials shall be compatible with those used in the immediate neighborhood.
- G. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.23 Greenhouses and Nurseries**

### **6.23.1 Performance standards**

Greenhouses and nurseries shall be subject to the administrative provisions of *Section 4.22 of this Ordinance* and the following performance standards.

- A. Retail sales shall be allowed and shall be accessory to the principal nursery, greenhouse or tree farm. The retail sale of products or materials is prohibited in the R-1 District.
- B. No sale of product shall take place in the public right-of-way of any Federal, State, County or Township roadway.
- C. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- D. All structures, including temporary structures, shall meet the minimum setback requirements of the district in which the use is located.
- E. The exterior storage of landscaping equipment and storage areas shall be screened from view of adjacent residential uses and Federal, State, County or Township roadways in accordance with *Section 7.23 of this Ordinance*.
- F. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.24 Grocery Stores**

### **6.24.1 Performance Standards**

A grocery store shall be subject to the following performance standards:

- A. The site shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- D. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

- E. The building and parking areas shall be buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- F. All areas used for trash disposal shall be fully screened from adjacent land uses and public roadways in accordance with *Section 7.31 of this Ordinance*.
- G. To the extent possible, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.25 Guest Cottages**

### **6.25.1 Performance Standards**

A guest cottage shall comply with the following standards:

- A. The site shall be located within the Shoreland Overlay district.
- B. The guest cottage shall meet the requirements for guest cottages contained in *Section 10.2.12 B of this Ordinance*.

## **6.26 Home Extended Businesses**

### **6.26.1 Performance standards**

A home extended business shall comply with the following standards:

- A. The home extended business shall be clearly incidental and subordinate to the residential use of the property.
- B. The home extended business shall be conducted only by persons residing on the premises. No person other than the residents of the premises shall be employed or engaged in such home extended business.
- C. Operation of the home extended business shall be limited to the residential dwelling and accessory or agricultural buildings on the same parcel.
- D. Areas used for the outdoor display or storage of goods, equipment, vehicles or other materials used for the home extended business shall be located to the rear of the structure and further buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- E. The home extended business shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
- F. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- G. The home extended business shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the MPCA.
- H. The home extended business at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
- I. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- J. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

## **6.27 Home Occupations**

**6.27.1 Performance standards**

A home occupation use shall comply with the following standards:

- A. The home occupation shall be clearly incidental and subordinate to the residential use of the property.
- B. The home occupation shall be conducted only by persons residing on the premises. No person other than the residents of the premises shall be employed or engaged in such home occupation.
- C. Operation of the home occupation shall be limited to the residential dwelling and any attached garage.
- D. The use of any accessory or agricultural buildings for storage or business activity is prohibited.
- E. The outdoor display or storage of goods, equipment or other materials used for the home occupation is prohibited.
- F. The home occupation shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
- G. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- H. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the MPCA.
- I. The home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
- J. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- K. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

**6.28 Hunting Clubs, Shooting Preserves and Shooting Ranges****6.28.1 Performance Standards for Shooting Ranges**

- A. Shooting ranges shall be subject to the administrative provisions of *Section 4.8 of this Ordinance*.
- B. The minimum size lot for each type of shooting range is listed below, including direct fire zone and/or shotfall zone, safety zone and ricochet zone, subject to the installation of additional baffles.
  - (1) High power Rifle:
    - (a) Minimum range length: 5,500 yards
    - (b) Minimum range width: 3,500 yards
    - (c) Minimum acreage: 3,800 acres
  - (2) Shotgun:
    - (a) Minimum range length: 300 yards
    - (b) Minimum range width: 400 yards
    - (c) Minimum acreage: 40 acres
  - (3) Other range types are subject to the *National Rifle Association Range Sourcebook, 1997; or successor sourcebook*.
- C. The range sizes listed in *6.28.1 B of this Ordinance* may be lessened through the use of baffles and berms along the sides, the end and throughout the firing range and/or shotfall zone. Baffles and berms shall meet or exceed the

standards listed in the *National Rifle Association Range Sourcebook 1997; or successor sourcebook*, to qualify for a reduction in range size.

- D. No part of any shooting range may be located within five hundred (500) feet of any residential dwelling, commercial or industrial building or other structure used for human occupancy.
- E. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- F. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- G. All shooting ranges shall comply with the minimum standards for range design, location, management, operation, noise abatement and safety listed in the *National Rifle Association Range Sourcebook, 1997; or successor sourcebook*.

#### **6.28.2 Performance Standards for Hunting Clubs and Shooting Preserves**

- A. Hunting clubs and shooting preserves shall be subject to the administrative provisions of *Section 4.8 of this Ordinance*.
- B. Hunting clubs and shooting preserves shall be subject to the standards set forth in *Minnesota Statutes, section 97A.115; or successor statutes*, and *Minnesota Rules, chapter 6242; or successor rules*.
- C. A detailed site plan showing the following features shall be submitted with any application for a hunting club or shooting preserve:
  - (1) Property lines.
  - (2) Wetland boundaries for wetlands within the property.
  - (3) Adjacent residences and structures within five hundred (500) feet of the property line.
  - (4) A topographic map of the property at a scale to be determined by the Department.
  - (5) Proposed parking areas, locations of proposed signs and the location of existing and proposed structures.
  - (6) Layout of proposed hunting areas.
- D. Firearms shall not be discharged within five hundred (500) feet of a residential dwelling.
- E. There shall be no discharge of lead shot into any wetland.
- F. Signage shall be subject to *Section 7.24 of this Ordinance* and parking shall be subject to *Section 7.19 of this Ordinance*.
- G. The Board may establish such other conditions it deems necessary to protect the public health, safety and welfare including, but not limited to, hours and days of operation, sanitation requirements, screening, landscaping, fencing, setbacks and density of uses.

### **6.29 In-Vessel Composting Facility and Mortality Incinerator**

#### **6.29.1 Performance Standards**

An in-vessel composting facility shall be subject to the following performance standards:

- A. The in-vessel composting facility shall be accessory to an animal feedlot. In the Urban Expansion district, an in-vessel composting facility shall be subject to the administrative requirements of *Section 4.8 of the Ordinance*.

- B. The use shall comply with all applicable local, state, and federal laws, rules, regulations and ordinances.
- C. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of the underlying zoning district. In addition, the facility shall be located no less than five hundred (500) feet from an existing residential dwelling, no less than two hundred (200) feet from a public water or public water/wetland, and no less than one hundred (100) feet from a property line.
- D. Any outdoor storage of bulking agents such as straw, clean wood, and other materials as approved by the Department is allowed. Manure stockpiles are allowed in accordance with *Section 6.7 of this Ordinance*.
- E. Any outdoor storage areas shall be screened from view of public roadways and adjacent uses in accordance with *Section 7.23 of this Ordinance*.
- F. The site shall be maintained in a clean and safe manner.
- G. Any composted materials shall be removed at a frequency sufficient to prevent nuisance conditions and at a minimum of annually.
- H. Any composted material shall be managed so as to prevent pollution of natural resources.
- I. The owner of an existing in-vessel composting facility or incinerator operating without a valid County permit shall register the facility or incinerator with the County no later than December 31, 2010.
  - a. A facility or incinerator that is registered on or before December 31, 2010 shall be subject to all provisions of this Ordinance except the setback provisions for the operation as it existed on the effective date of this Ordinance.
  - b. A facility or incinerator that is not registered on or before December 31, 2010 shall be subject to all requirements of this Ordinance including setback requirements.

## **6.30 Junk and Salvage Operations**

### **6.30.1 MPCA Motor Vehicle Salvage Facility Environmental Compliance Manual Adopted by Reference**

All junk and salvage operations shall comply with the minimum standards for operation, safety, storage and all waste management as listed in the *MPCA Motor Vehicle Salvage Facility Environmental Compliance Manual, Second Addition, April 1998; or successor manual*.

### **6.30.2 Performance Standards**

New junk and salvage operations shall be subject to the administrative provisions of *Section 4.8 of this Ordinance*. Both new and existing junk and salvage operations shall be subject to the following performance standards:

- A. The facility shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The use shall comply with all applicable Federal, State and County rules and regulations.

- C. Buildings, parking areas, loading areas and any exterior storage, including but not limited to, vehicles, hulks, salvaged materials, salvaged parts, waste materials, items for resale or items for disposal, shall meet the setback requirements of the applicable zoning district.
- D. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- E. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- F. No vehicles or vehicle parts may be placed within the public right-of-way or on public property.
- G. The facility shall be fenced and fully screened from adjacent land uses and public roadways in accordance with *Section 7.23 of this Ordinance*.
- H. Exterior storage of vehicles, hulks, salvaged materials, salvaged parts, waste materials, items for resale or items for disposal shall be limited to a maximum height of twelve (12) feet above grade provided that screening in accordance with *Section 7.23 of this Ordinance* to a height of twelve (12) feet is also provided.
- I. The County shall be notified of any hazardous materials stored on site. Storage of hazardous materials shall comply with all local, state and federal requirements.
- J. An environmental management plan, including a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- K. Any outdoor lighting system shall comply with the requirements of *Section 7.15 of this Ordinance*.
- L. The grounds and all structures shall be maintained in a clean and safe manner.
- M. One caretaker residence may be allowed. The residence is to be used strictly for the caretaker and his/her family members. The caretaker residence shall be accessed via the access road to the junk and salvage operation.
- N. The salvage facility operator shall keep a written record of all vehicles received, date when received, date when fluids were removed and date when vehicles were removed from the facility. The record shall also include the Vehicle Identification Number (VIN) and manufacturer's name. Each record shall be initiated the day that the vehicle is received at the site.
- O. All fluids, including but not limited to motor oil, transmission and/or transfer case lubricants, differential lubricants, fuel, antifreeze, refrigerants and window washing fluids shall be removed from the vehicle, within three (3) days of receipt of the vehicle at the salvage facility.
- P. All lead acid batteries, mercury containing devices and other hazardous materials shall be removed from the vehicle, within three (3) days of receipt of the vehicle at the salvage facility.
- Q. Vehicles that are not to be used for salvage and are kept intact for resale, and recorded in the facility records for such purposes, are exempt from the requirements of *Sections 6.30.2 O and P of this Ordinance*, for one hundred eighty (180) days of receipt of said vehicle.

- R. On-site disposal or burning of trash, refuse, garbage or other waste materials is prohibited. Salvage of materials by, fire, burning, explosives or chemical decomposition is prohibited.
- S. Owners of a vehicle salvage facility shall submit a written report to the Department by March 1 of each year. The report shall include the number of vehicles stored onsite for salvage, vehicles stored onsite for resale, an inventory of fluids, lead acid batteries, refrigerants, mercury containing devices and other hazardous materials collected and how the materials collected were disposed of. A copy of the facility's written record for vehicles as required in *Section 6.30.2 N of this Ordinance* shall be attached to the report.
- T. Junk yards and salvage operations shall be subject, as a minimum, to an annual inspection by the Department.
- U. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- V. Holding or Staging Areas. Vehicles stored in holding or staging areas shall be exempt from *Sections 6.30.2 O. and P. of this Ordinance* for a period of one hundred twenty (120) days. The holding or staging area designated to temporarily store vehicles before processing shall not exceed storage for a maximum of eighty-five (85) vehicles. The holding or staging area shall have an impervious surface constructed of concrete, bituminous surface or eight (8) inches of compacted Class 5 gravel. The area shall be curbed or diked to a minimum of six (6) inches above the impervious surface to prevent precipitation from running off the holding or staging area. As an option to curbing, the holding or staging area may be sloped so that all precipitation is directed to the center of the holding or staging area. The center of the area shall be a minimum of eight (8) inches lower in elevation than the lowest edge of the holding or staging area.

## **6.31 Keeping of Animals**

### **6.31.1 Performance Standards**

- A. Dogs, domestic pets and companion animals over six (6) months of age, will be limited to four (4) in the T-20, R-20, R-10, R-5, RT and R-1 districts.
- B. The keeping of Regulated Animals as defined in *Minnesota Statutes 2006, 346.155; or successor statutes* shall only be allowed in accordance with *Minnesota Statutes 2006, section 346.155; or successor statutes*. Owners of Regulated Animals shall register with the Stearns County Sheriff.
- C. Owners of Petting Zoos shall be licensed and registered by the USDA Animal and Plant Health Inspection Service as required by the *Federal Animal Welfare Act Title 7 Chapter 54 §2133* and shall meet the requirements of *Section 6.7 of this Ordinance*.

## **6.32 Kennels, Commercial**

### **6.32.1 Performance standards**

A commercial kennel may be allowed as a conditional use subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following standards:



- A. Information to be Submitted with Conditional Use Permit Applications
- (1) Species and maximum number of animals that will be at the site and for commercial breeding kennels, the number of unsterilized females that will be housed permanently at the facility;
  - (2) A dead animal disposal plan in conformance with Minnesota Rules, sections 1719.0100 to 1719.4600; *or successor rules*;
  - (3) A site plan identifying the location and size of the lot and of all existing and proposed physical or structural improvements, such as buildings, dog runs and/or outside exercise areas, parking areas, food storage areas, watering facilities, wells, septic systems and other improvements;
  - (4) A waste disposal plan, including how the owner will handle on-site kennel wash water. All applicants shall provide proper drainage for indoor and outdoor facilities. All applicants shall show existing and proposed surface drainage in relation to adjacent land owners and features.
  - (5) The name, address and phone number of the kennel operator and the name, address and phone number of the property owner, if different than the kennel operator.
  - (6) The number of employees and the approximate time periods per week employees will be overseeing kennel operations.
- B. The following standards shall apply to all commercial kennels:
- (1) The use shall comply with all applicable Federal, State and County rules and regulations.
  - (2) All animals shall be treated humanely at all times.
  - (3) All dogs over six (6) months of age shall be exercised daily.
  - (4) No animals on the kennel site shall be debarked.
  - (5) The owner/operator of the kennel shall operate the kennel as to not unreasonably disturb the peace and quiet of neighboring residents.
  - (6) Structures used for animal confinement require a minimum one hundred (100) foot setback from any property line and five hundred (500) feet from any residential dwelling, other than the applicants, that exists at the time of application.
  - (7) On-site waste facilities shall be designed to accommodate all waste generated from kennels including hosing and cleanup.
  - (8) Kennel facilities shall be designed to accommodate seasonal extremes including adequate heating, ventilation and lighting;
  - (9) Confinement areas must be maintained at a temperature suitable for the specific breed of animal, but in no case shall the temperature for indoor housing facilities be allowed to fall below fifty (50) degrees Fahrenheit for animals not acclimated to lower temperatures.
  - (10) Different species of animals shall not be housed together unless they are compatible.
  - (11) Animals with vicious dispositions shall be housed apart from other animals.
  - (12) An indoor confinement area must be ventilated. Drafts, odors and moisture condensation must be minimized.

- (13) Indoor confinement areas must have at least eight (8) hours of illumination (natural or artificial) sufficient to permit routine inspection and cleaning.
  - (14) Enclosures must be of sufficient size to allow each animal to turn about fully and to stand, sit and lie in a comfortable, normal position. The enclosure shall be constructed so as to prevent injury to the animal being confined. Except for traditional sled dog species, chaining or tethering shall not be used for confining animals.
  - (15) Adequate storage and refrigeration must be provided to protect food supplies from contamination and deterioration.
  - (16) All animals must be fed at least once a day with clean, wholesome food, such as food certified by the Association of American Feed Control Officials, sufficient to meet the normal daily nutritive requirements for the animal's size age and condition.
  - (17) Clean, potable water must be made available to all animals at least twice daily for periods of not less than one hour. All feeding and watering receptacles must be kept clean and sanitary.
  - (18) Females in estrus must not be confined in the same enclosure with males except for breeding purposes. Animals used for breeding must be of compatible size and only one (1) male and one (1) female may be confined in a primary enclosure for breeding.
  - (19) Animals affected with any clinical evidence of infections, contagious or communicable disease must be separated from other animals.
  - (20) The owner of the kennel shall establish and maintain an effective program for the control of insects, ectoparasites, rodents and other pests.
  - (21) All kennels shall be subject to periodic inspection by County staff.
  - (22) All outdoor kennel facilities shall provide adequate shelter from the elements including sunlight, wind, rain, snow and cold weather.
  - (23) Kennel facilities shall be adequately drained and maintained in a healthful manner to prevent odors, diseases and vermin infestations. Kennel facilities must be cleaned and disinfected as often as necessary to maintain a clean and sanitary condition.
  - (24) Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
  - (25) Commercial kennels with twenty five (25) or more animals, including those that are in existence at the date of adoption of this Ordinance, shall be licensed by the Department. Owners or operators of existing commercial kennels with twenty five (25) or more animals shall obtain a license from the Department by December 31, 2011. Commercial kennel licenses shall be valid from the time they are issued until December 31 of the next year after their issuance.
- C. The following standards shall apply to all commercial kennels where breeding of animals is the primary use and animals are not taken in for boarding, or where breeding and boarding both occur:
- (1) No more than forty (40) animals over six (6) months of age may be kept on a breeding kennel property, including no more than ten (10) unsterilized female animals over six (6) months of age.

- (2) Female animals in estrus must be separated from male animals except for breeding purposes. Animals used for breeding must be of compatible size and only one (1) male and one (1) female may be confined in a primary enclosure for breeding. Animal young shall be separated from adult animals other than their mothers.
  - (3) Kennels and dealers shall establish and maintain a program of disease control and prevention, euthanasia and adequate veterinary care under the supervision of a doctor of veterinary medicine. Euthanasia shall be performed by a doctor of veterinary medicine.
  - (4) The following conditions make an animal unfit for sale or release, other than to the previous owner:
    - (a) Obvious signs of infectious disease
    - (b) Obvious signs of nutritional deficiencies
    - (c) Obvious signs of severe parasitism
    - (d) Fractures
    - (e) Blindness; and
    - (f) Serious congenital abnormalities
- D. Animals determined to be unfit for sale or release as described in *Section 6.32 C(4) of this Ordinance* shall be isolated and treated by a licensed veterinarian or euthanized by a doctor of veterinary medicine in a humane manner. If treatment for the conditions described in *Section 6.32 C(4) of this Ordinance* brings about a satisfactory recovery to a normal state of health, the animals are fit for release or sale.
- E. The owner or operator of a kennel shall maintain the records required by *Minnesota Rules, part 1720.1560; or successor rules*.
- F. The following standard shall apply to all commercial kennels where boarding of animals is the primary use and animals are not kept for breeding purposes:
- (1) No more than forty (40) animals of any age may be kept on a boarding kennel property.

### **6.33 Kennels, Private**

A kennel may be allowed as an accessory use subject to the following standards:

#### **6.33.1 Performance Standards:**

- A. Structures used for animal confinement shall meet the setback requirements of the applicable zoning district, except as provided in *Section 6.33.1 G. of this Ordinance*.
- B. Kennel facilities shall be designed to accommodate winter boarding including adequate heating, ventilation and lighting
- C. All outdoor kennel facilities shall provide adequate shelter from the elements including sunlight, rain, snow and cold weather.
- D. Kennel facilities shall be adequately drained and maintained in a healthful manner.
- E. Private kennels shall be operated in compliance with *Minnesota Statutes, section 346.39*.
- F. No more than ten (10) animals may be kept in a private kennel.

- G. Private kennels with more than ten (10) animals are allowed with a conditional use permit, as provided for in *Section 4.8 of this Ordinance*, provided the proposed private kennel meets the setback requirements of *Section 6.32 of this Ordinance*, exclusive of the residence associated with the kennel, and all other conditions identified by the Board.

## **6.34 Licensed Nonresidential Program**

### **6.34.1 Performance Standards**

A licensed group family day care facility shall comply with the following standards:

- A. The building and any exterior fenced areas shall meet the setback standards for a single family residence in the district in which it is located.
- B. The use shall comply with all applicable Federal, State and County rules and regulations.
- C. Licensed nonresidential programs shall have a licensed capacity of twelve (12) or fewer persons pursuant to *Minnesota Statutes, section 245A.14; or successor statutes*
- D. The exterior appearance of the structure shall not be altered from its single-family character.
- E. For adult day care facilities, at least one hundred fifty (150) square feet of outdoor area for seating or exercise shall be provided for each adult under care.
- F. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- G. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

### **6.34.2 License Required**

The facility shall be licensed by the appropriate State and/or County agencies.

## **6.35 Licensed Residential Care Facility (Residential Program)**

### **6.35.1 Performance Standards**

A licensed residential care facility shall comply with the following standards:

- A. The use shall comply with all applicable Federal, State and County rules and regulations.
- B. Residential programs shall include housing with services established under *Minnesota Statutes, chapter 144D; or successor statutes*, serving 6 or fewer persons, except that a Residential Program licensed on or after July 1, 1995, whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses, or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use pursuant to *Minnesota Statutes, section 245A.11; or successor statutes*.
- C. The building and any exterior fenced areas shall meet the setback standards for a single family dwelling in the district in which it is located.
- D. The exterior appearance of the structure shall not be altered from its single family residential character.

- E. The primary purpose of the facility cannot be to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.
- F. The facility shall not provide accommodations to treat persons whose tenancy would constitute a direct threat to the health and safety of other individuals.
- G. The facility cannot accept court ordered referrals for treatment in lieu of incarceration without adequate security.
- H. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- I. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.

#### **6.35.2 License Required**

The facility shall be licensed by the appropriate State agency.

### **6.36 Limited Rural Business**

#### **6.36.1 Performance Standards**

A limited rural business shall be subject to the administrative requirement of *Section 4.8 of this Ordinance* and the following standards:

- A. The limited rural business shall be clearly incidental and subordinate to the residential use of the property.
- B. The limited rural business shall be operated primarily by a person or persons residing on the premises. No more than four (4) non-resident employees may be engaged in the conduct of the limited rural business on the premises at any one time on a regular basis. For purposes of this provision, non-resident employees shall only include employees, business partners, independent contractors or other persons affiliated with the limited rural business working at the site as part of the limited rural business.
- C. Operation of the limited rural business shall be limited to the residential dwelling and accessory or agricultural buildings on the same parcel.
- D. The outdoor display or storage of goods, equipment or other materials used for the limited rural business may be allowed, subject to the provisions of *Sections 6.45 and 6.47 of this Ordinance*.
- E. The limited rural business shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
- F. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- G. The limited rural business shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
- H. The limited rural business on a site with an on-site sewage treatment system shall only generate normal domestic household waste. All other wastes shall be subject to local, state and federal laws, rules, regulations and ordinances.
- I. Off-street parking shall be provided for any non-resident employees in a manner that does not significantly change the agricultural or residential character of the property. In addition, the parking requirements of *Section 7.19 of this Ordinance* shall be met.
- J. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## 6.37 Limited Rural Manufacturing

### 6.37.1 Performance Standards

A limited rural manufacturing facility shall be subject to the administrative requirement of *Section 4.8 of this Ordinance* and the following standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. No more than 10 employees may be engaged in the conduct of the business on the premises at any one time on a regular basis. For purposes of this provision, employees shall only include employees, business partners, independent contractors or other persons affiliated with the business working at the site as part of the business.
- D. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of this Ordinance.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- F. All parking areas, loading areas, and access drives to parking and loading areas shall be durable and dustless.
- G. All loading and unloading facilities shall be located on the rear or side of the structure and be screened from view from all public roadways and adjacent residential uses in accordance with *Section 7.23 of this Ordinance*.
- H. The outdoor display or storage of goods, equipment or other materials used for the business may be allowed, subject to the provisions of *Sections 6.45 and 6.47 of this Ordinance*.
- I. The facility shall not generate customer or client traffic that is detrimental to the character of the surrounding properties.
- J. The facility shall not generate hazardous waste. Any hazardous chemicals/materials utilized on site shall have a plan for storage and disposal.
- K. A retail sales area may be allowed as an accessory use provided that sales are limited to the sale of goods produced on-site and the retail sales area does not occupy more than twenty (20) percent of the structure.
- L. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- M. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- O. Lighting shall meet the requirements of *Section 7.15 of this Ordinance*.
- P. The facility and use shall comply with all local, state and federal laws, rules, regulations and ordinances.

## **6.38 Manufacturing, General**

### **6.38.1 Performance Standards**

A general manufacturing facility shall be subject to the following standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of this Ordinance.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- F. All parking areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
- G. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- H. The facility shall comply with local, state and federal laws, rules, regulations and ordinances.
- I. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear of the structure, fenced and adequately screened from adjacent land uses and public roadways in accordance with *Section 7.23 of this Ordinance*.
- J. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all applicable local, state and federal laws and regulations.
- K. All loading and unloading facilities shall be located on the rear or side of the structure and be screened from view from all public roadways and adjacent residential uses in accordance with *Section 7.23 of this Ordinance*.
- L. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- M. The hours of operation shall not have a adverse impact on adjacent property owners.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.39 Manufacturing, Light**

### **6.39.1 Performance standards**

A light manufacturing facility shall be subject to the following standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.

- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The facility and use shall comply with all local, state and federal laws, rules, regulations and ordinances.
- D. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of this Ordinance.
- E. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- F. All parking areas, loading areas, and access drives to parking and loading areas shall be durable and dustless.
- G. A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- H. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all local, state and federal laws, rules, regulations and ordinances.
- I. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear of the structure, fenced and adequately screened from adjacent land uses and public roadways in accordance with *Section 7.23 of this Ordinance*.
- J. All loading and unloading facilities shall be located on the rear or side of the structure and be screened from view from all public roadways and adjacent residential uses in accordance with *Section 7.23 of this Ordinance*.
- K. A retail sales area may be allowed as an accessory use provided that sales are limited to the sale of goods produced on-site and the retail sales area does not occupy more than twenty (20) percent of the structure.
- L. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- M. The hours of operation shall be reasonable and shall not have an adverse impact on adjacent property owners.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.40 Migrant and/or Seasonal Worker Temporary Dwelling Unit**

A Migrant and/or Seasonal Worker Temporary Dwelling Unit may be allowed as an interim use subject to the administrative provisions of *Section 4.18 of this Ordinance* and the following standards:

##### **6.40.1 Performance Standards**

- A. A Migrant and/or Seasonal Worker Temporary Dwelling Unit shall be located upon the property that employs the migrant and/or seasonal worker.
- B. Occupancy is limited to eight (8) months of each year.
- C. Migrant and/or Seasonal Worker Temporary Dwelling Unit, whether site built or manufactured dwelling unit shall meet all requirements of this Ordinance and applicable State of Minnesota manufactured housing codes, and any applicable local building codes in effect at the time of construction.
- D. All buildings used for migrant and/or seasonal temporary dwelling units shall have a permanent, continuous perimeter foundation.



- E. Occupancy per unit is limited to standards established by the State of Minnesota and the local Fire Department Official.
- F. Sanitary sewage disposal facilities and potable water systems shall be subject to review and approval by the Department. Such facilities shall comply with all local, state and federal laws, rules, regulations and ordinances.
- G. Severe weather shelters shall be provided and designed in accordance with *Section 4.20 of Stearns County Ordinance Number 203; or successor ordinance.*
- H. Site and structural improvements (parking, recreation space, site layout, etc.) as applicable shall be determined by the Planning Commission.
- I. A Migrant and/or Seasonal Worker Temporary Dwelling Unit shall not be considered in the calculation of any residential density determination as set forth in this Ordinance.

## **6.41 Motor Vehicle Repair**

### **6.41.1 Performance standards**

Except as provided in *Section 9.11.2 of this Ordinance*, a motor vehicle repair facility may be allowed as a conditional use subject to the administrative provisions of *Section 4.8 of this Ordinance*, and the following standards:

- A. The use shall comply with all applicable local, state, and federal, laws, rules, regulations and ordinances.
- B. Buildings and vehicle storage areas shall meet the setback requirements of this Ordinance.
- C. There shall be no hazardous waste runoff. Storage of hazardous waste shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. Only vehicles owned by employees or customers awaiting service, or motor vehicles held for sale under *Section 6.41.1 E of this Ordinance*, are allowed to be parked on site. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- E. No more than three (3) motor vehicles shall be for sale at any time. Items for sale shall only be motor vehicles.
- F. The storage of salvage vehicles is only permitted when the salvage vehicles are stored in an area screened in accordance with the requirements of *Sections 6.47 and 7.23 of this Ordinance*.
- G. All areas used for storage or trash disposal shall be fully screened from adjacent land uses and public roadways in accordance with *Section 7.23 and 7.32 of this Ordinance*.
- H. Any outdoor lighting system shall comply with the requirements of *Section 7.15 of this Ordinance*.
- I. The outdoor storage of hazardous materials shall be prohibited.
- J. The grounds and all structures shall be maintained in a clean and safe manner.
- K. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-

site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.

- L. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- M. The owner or operator may be required to submit a financial guarantee to the County to ensure compliance with the conditional use permit and the closure requirements.
- N. The outdoor storage of motor vehicle parts is prohibited, unless the vehicle parts are stored in an area screened in accordance with the requirements of *Sections 6.47 and 7.23 of this Ordinance*. Vehicle parts shall not be stored for a period longer than ninety (90) days in an area screened in accordance with the requirements of this Section.

## **6.42 Motor Vehicle Repair, Accessory to Residential Use**

### **6.42.1 Performance Standards**

A Motor Vehicle Repair use that is accessory to a Residential principle use shall comply to all the performance standards in *Section 6.41.1 of this Ordinance* and the following additional standards:

- A. The use shall be accessory to a principle residential use in agricultural districts.
- B. A site plan shall be filed indicating an area on the lot dedicated to motor vehicle repair and sales. Motor vehicle repair and sales activities shall be confined to the defined area.
- C. No more than three (3) motor vehicles shall be for sale at any time. Items for sale shall only be motor vehicles.
- D. No more than seven (7) motor vehicles, including salvage vehicles, at a time may be on the lot outside of an enclosed building regardless of whether or not they are being held for sale.
- E. On-street parking of motor vehicles being held for sale or repair is prohibited.

## **6.43 Outdoor Paintball Courses**

### **6.43.1 Performance Standards**

Outdoor paintball course are subject to the administrative provisions of *Section 4.8 of this Ordinance* and the following standards:

- A. Paintball shall be defined as any game or event that involves using guns or devices that shoots capsules of paint or dye.
- B. The parcel shall have a minimum lot size of ten (10) acres.
- C. The outdoor paintball course shall be setback a minimum of 200 feet from all property lines and a minimum of three hundred (300) feet from any residential dwellings.
- D. Paint and balls used shall be non-toxic and of a type non-harmful to the environment.
- E. Screening of the facility from neighboring homes shall be required in accordance with *Section 7.23 of this Ordinance*.

- F. Information shall be submitted to the Department regarding the paintball course, sanitary facilities and waste disposal, lighting and hours of operation and other issues relevant to the proposed use.
- G. A transportation management plan shall be submitted to address off-street parking, the mitigation of overflow parking, traffic circulation, traffic control and the impact of the facility on surrounding roadways.
- H. All structures shall meet the setback requirements of this Ordinance.
- I. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- J. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- K. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.

## **6.44 Outdoor Recreation Facilities**

### **6.44.1 Performance Standards**

Outdoor recreation facilities are subject to the following standards:

- A. Information shall be submitted to the Department regarding the recreational facility, sanitary facilities and waste disposal, lighting and hours of operation and other issues identified as relevant to the proposed use.
- B. The site shall adequately accommodate the recreational use.
- C. A transportation management plan shall be submitted to address off-street parking, the mitigation of overflow parking, traffic circulation, traffic control and the impact of the facility on surrounding roadways.
- D. All buildings and structures shall meet the setback requirements of this Ordinance.
- E. No overnight accommodations shall be provided.
- F. A grading and drainage plan shall be submitted.
- G. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- H. A water and sewer management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment.
- I. One caretaker residence may be allowed. The residence is to be used strictly for the caretaker and his/her family members. The caretaker residence shall be accessed via the access road to the recreation facility.
- J. Signs shall meet the requirement of *Section 7.24 of this Ordinance*.

## **6.45 Outdoor Sales and Display**

### **6.45.1 Performance standards**

An outdoor sales and display use shall comply with the following standards:

- A. The outdoor sales and display use shall be accessory to a commercial use.
- B. All goods or materials shall be displayed in a designated area. The designated area may not be within any road right-of-way.
- C. The grounds and any structures shall be maintained in a clean, orderly and safe manner.
- D. The outdoor sales and display area shall not reduce the amount of parking provided on site below the level required for the principal use.

- E. Hazardous materials cannot be stored in an outdoor sales and display area.

## **6.46 Outdoor Sales and Display, Accessory to Motor Vehicle Repair**

### **6.46.1 Performance Standards**

Outdoor Sales and Display that is accessory to a Motor Vehicle Repair principal use shall comply with all the performance standards in *Section 6.41.1 of this Ordinance* and the following additional standards:

- A. The items for sale shall only be motor vehicles.
- B. No more than ten (10) motor vehicles at a time may be on the lot regardless of whether or not they are being held for sale or awaiting service.
- C. On-street parking of motor vehicles being held for sale or repair is prohibited.
- D. Persons staffing the outdoor sales lot shall be employees of the owner of the motor vehicle repair principle use.
- E. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.47 Outdoor Storage**

### **6.47.1 Performance standards**

An outdoor storage use shall comply with the following standards:

- A. The outdoor storage use shall be accessory to a limited rural business, an agriculturally oriented business, a contractor's yard, limited rural manufacturing, a commercial use or an industrial use.
- B. Outdoor storage areas shall meet all setback requirements of the underlying zoning district.
- C. Outdoor storage areas shall be limited to the rear or side yard locations and at no time shall storage material extend beyond the front building line of the principal structure
- D. The grounds and any structures shall be maintained in a clean, orderly and safe manner.
- E. Hazardous materials cannot be stored in an open and outdoor storage area.
- F. The storage area shall be fenced and adequately screened from adjacent land uses and public roadways in accordance with *Section 7.23 of this Ordinance*.

## **6.48 Recreational Vehicle Parks and Campgrounds**

### **6.48.1 Performance Standards**

Recreational vehicle parks and campgrounds are subject to the administrative provisions of *Section 4.8 of this Ordinance* and the following standards:

- A. The site shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- C. A transportation management plan shall be submitted to address off-street parking, traffic control and the impact of the facility on surrounding

roadway. In addition, parking shall meet the requirements of *Section 7.19 of this Ordinance*.

- D. A water and sewer management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment.
- E. Site density shall be subject to the limitations contained in *Stearns County Ordinance Number 187; or successor ordinance* and *Section 10.2 of this Ordinance*.
- F. All sites shall have direct access to an internal circulation roadway.
- G. The storage, use or occupancy of manufactured homes in a recreational vehicle park is prohibited.
- H. At least twenty-five (25) percent of the Recreational Vehicle Park or campground area shall be dedicated as open space which may be used for passive or active recreation. Roads shall not be used to calculate the required open space.
- I. All buildings, structures, recreational vehicles, campsites and parking areas shall meet the setback requirement of the applicable zoning district.
- J. Recreational vehicle parks and campgrounds located within the Shoreland Overlay district shall also meet the provisions of *Section 10.2 of this Ordinance*.
- K. One caretaker residence may be allowed. The residence is to be used strictly for the caretaker and his/her family members. The caretaker residence shall be accessed via the access road to the recreation facility.
- L. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

#### **6.48.2 License Required**

Recreational vehicle parks and campgrounds shall be licensed by the Department and shall meet the requirements of *Stearns County Ordinance 187; or successor ordinance*.

### **6.49 Recycling Centers**

#### **6.49.1 Performance Standards**

A new recycling center shall be subject to the administrative provisions of *Section 4.8 of this Ordinance*. Both new and existing recycling centers are subject to the following standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. All processing equipment shall be enclosed within a structure.
- E. Outdoor storage of non-putrescible and recyclable materials may be allowed provided the materials are stored in a covered container. As an alternative, the storage area shall be screened in accordance with *Section 7.23 of this Ordinance* provided that the non-putrescible and recyclable materials being stored are not

greater in height than the screening. All hazardous liquids shall be stored under cover.

- F. Outdoor storage areas shall be durable and dustless and screened from view of public roadways and adjacent uses in accordance with *Section 7.23 of this Ordinance*.
- G. There shall be no hazardous material runoff.
- H. An all-weather hard surfaced road shall be provided from the entrance gate of the facility to loading and unloading areas.
- I. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- J. All parking areas and access drives to parking areas shall be durable and dustless.
- K. A water and sewer management plan and stormwater management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment
- L. Access to the site shall be controlled to prevent unauthorized dumping.
- M. In the event the business ceases operation, the owner or operator shall close the recycling center in a manner that prevents the escape of pollutants to ground water or surface waters, to soils or to the atmosphere during post closure periods and in accordance with all local, state and federal laws, rules, regulations and ordinances.
- N. The owner or operator may be required to submit a financial guarantee to the County to ensure compliance with any conditional use permit or closure requirement. A financial guarantee in the form of a bond, insurance policy, escrow account or other accepted alternative.
- O. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.50 Schools – Public or Private**

### **6.50.1 Performance Standards**

A school use shall be subject to the following performance standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control and the impact of the facility on surrounding roadways.
- E. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- F. Parking shall meet the requirements of this *Section 7.19 of this Ordinance*.
- G. All parking areas, bus loading and unloading areas, delivery areas and access roads to any of these areas shall be hard surfaced.

- H. To the extent possible, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the immediate neighborhood.
- I. All accessory residential or day care uses are subject to the provisions of this Ordinance.
- J. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.51 Seasonal Produce Sales Stands, Accessory**

### **6.51.1 Performance Standards**

Seasonal produce sales stands shall comply with the following standards:

- A. Seasonal produce stands shall be an accessory use to a principle agricultural use.
- B. Operation of produce stands shall be limited to the growing season in Minnesota.
- C. No sale of product shall take place in the public right-of-way of any Federal, State, County or Township roadway unless approved by the road authority.
- D. Off-street parking shall be provided outside of any road right-of-way.
- E. Any temporary structure placed on the property for seasonal produce sales shall be removed at the end of the selling season. The size of the temporary structure shall not exceed one hundred twenty (120) square feet.
- F. All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
- G. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.52 Solar Energy Systems**

### **6.52.1 Comprehensive Plan Reference**

The purpose of this Section is to set forth standards for large and small solar energy systems. Stearns County has determined that development of solar energy is in the public interest and consistent with the Comprehensive Plan, including the following goals:

- A. Natural Resource Plan, Goal 2, Objective 4: Encourage use of renewable energy systems, including wind energy and solar energy, which reduce the footprint of development on local and global natural systems.
- B. Economic Development Plan, Goal 3, Objective 3: Encourage and promote the use of “green” architecture design principles that minimize impacts to the natural and cultural environments and reduce long-run risk to business.

### **6.52.2 Standards for Solar Farms**

Solar Farms shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. Stormwater management shall meet the requirements of *Section 7.25 of this Ordinance*. For purposes of this Ordinance, the solar panel collector surface shall not be considered to be impervious surface, unless otherwise required by the Board.
- B. Erosion and sediment control shall meet the requirements of *Section 7.10 of this Ordinance*.
- C. **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.
- D. **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.
- E. **Power and communication lines.** Power and communication lines running between the banks of the solar panels may be placed above ground, provided the lines are placed no higher than top of the solar modules. Power and communication lines to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Board in the following instances:
  - (1) Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
  - (2) When required by the utility company
  - (3) Unless otherwise determined by the Board
- F. **Screening.** Solar farms shall be screened from residential dwelling units and/or other land uses as required by the Board and shall minimally meet the requirements of *Section 7.23 of this Ordinance*. The screening plan shall show the location of fences and residential dwelling units on contiguous lots. Fences installed as part of the project shall be screened. The type and location of the required screening shall be subject to Board approval.
- G. **Setbacks.** Solar farms must meet the minimum building setback for the zoning district and be located a minimum of two hundred (200) feet from a residential dwelling unit not located on the property. Setbacks shall be measured to the nearest solar array or other structure within the solar farm, excluding security fencing, screening or berm.
- H. **Vegetation requirements and management.** The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by the Board.
  - (1) Large-scale removal of mature trees on the site is discouraged. Restrictions on tree clearing, or mitigation for cleared trees may be required by the Board.
  - (2) The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources.
    - (a) Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned.



- (b) The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the County equal to one hundred twenty-five (125) percent of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established in accordance with the requirements set forth in *Section 6.52.2H(1) of this Ordinance*.

**I. Application requirements.** The following information shall be provided to the Department prior to issuance of the conditional use permit:

- (1) A site plan showing the following:
  - (a) Existing property lines and property lines extending one hundred (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) Topography at two (2) foot intervals and source of contour interval, unless determined otherwise by the Department. A contour map of the surrounding properties may also be required
  - (f) Existing vegetation (list type and percent of coverage; i.e. grassland, plowed field, wooded areas, etc.)
  - (g) Waterways, watercourses, lakes and public water wetlands
  - (h) Delineated wetland boundaries
  - (i) The one hundred (100)-year flood elevation and Regulatory Flood Protection Elevation, if available
  - (j) Floodway, flood fringe and/or general flood plain district boundary, if applicable
  - (k) The shoreland district boundary, if any portion of the project is located in a shoreland overlay district
  - (l) In the shoreland overlay district, the ordinary high water level and the highest known water level
  - (m) In the shoreland overlay district, the toe and top of any bluffs within the project boundaries
  - (n) Mapped soils according to the Stearns County Soil Survey
  - (o) Surface water drainage patterns
  - (p) LESA score for the parcel, if located within an agricultural zoning district.
  - (q) Location and spacing of solar panels
  - (r) Location of access roads
  - (s) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load
  - (t) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm

- (u) Proposed erosion and sediment control measures as required in *Section 7.10 of this Ordinance*.
  - (v) Proposed stormwater management measures as required under *Section 7.25 of this Ordinance*
  - (w) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any);
  - (x) Location, number and caliper of any trees to be removed, for trees with size greater than six (6) inches.
  - (y) Acreage of solar array.
  - (z) Acreage of solar array within fenced area.
- (2) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
  - (3) The number of panels to be installed;
  - (4) A description of the method of connecting the array to a building or substation;
  - (5) Decommissioning. 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 twelve (12) consecutive months. The plan shall include provisions for removal of all structures, foundations, electrical equipment and internal or perimeter access roads, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of *Stearns County Solid Waste Ordinance Number 171; or successor ordinance*. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the County equal to one hundred twenty-five (125) percent of the costs to meet the requirements of the decommissioning plan. The type of guarantee is subject to the Board's approval.
  - (6) Aviation Analysis. If the project is within two miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide the results.
  - (7) Visual Impact Analysis. An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts in accordance with *Section 6.52.2F of this Ordinance*.

**6.52.3 Standards for Solar Energy Systems, Accessory.** Solar energy systems are a permitted accessory use in all zoning districts, subject to the *administrative requirements of Section 4.11* and the following standards.

- A. Accessory Building Limit. Ground mounted systems shall count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per lot and the coverage limits, as set in *Section 6.2 of this Ordinance*.
- B. 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. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed.
  - (2) Ground or pole-mounted solar systems shall not exceed twenty-five (25) feet in height when oriented at maximum tilt.
- C. 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 two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - (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.
- D. Stormwater management shall meet the requirements of *Section 7.25 of this Ordinance*.
- E. Erosion and sediment control shall meet the requirements of *Section 7.10 of this Ordinance*.
- F. Approved Solar Components. Electric solar system components must have documentation that the products have been independently tested by a Nationally Recognized Testing Laboratory.
- G. Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electric Code.
- H. 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.

**6.53 Solid Waste Composting Facility**

**6.53.1 Performance Standards**

A solid waste composting facility shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The use shall comply with all applicable local, state, and federal laws, rules, regulations and ordinances.
- D. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of the underlying zoning district. In addition, the facility shall be located no less than five hundred (500) feet from an existing residential use and no less than two hundred (200) feet from a public water or public water/wetland.
- E. Outdoor storage of yard waste materials is allowed.
- F. Outdoor storage of solid waste material is not allowed unless the materials are stored in a covered container.
- G. Outdoor storage areas shall be screened from view of public roadways and adjacent uses in accordance with *Section 7.23 of this Ordinance*.
- H. Parking shall meet the requirements in *Section 7.19 of this Ordinance*.
- I. All parking areas and access drives to parking areas shall be durable and dustless.
- J. A water and sewer management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment.
- K. A storm water management plan shall be submitted to address the collection, retention and drainage of storm water on site and the impact on the environment.
- L. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours.
- M. The open burning and/or burying of waste is prohibited.
- N. The site shall be maintained in a clean and safe manner.
- O. Materials that are not composted shall be stored and removed from the site on a weekly basis.
- P. Signs shall meet the requirements in *Section 7.24 of this Ordinance*.
- Q. The placement and operation of Solid Waste Composting Facilities shall be prohibited in the Shoreland Overlay District.

## **6.54 Solid Waste Disposal Facilities and Transfer Stations**

### **6.54.1 Performance Standards for Solid Waste Disposal Facilities**

Solid waste disposal facilities and transfer stations shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional

- class roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. The site shall be located at least five hundred (500) feet from any residential dwelling unit.
  - C. The facility operator or owner shall submit information to the Department regarding the surroundings, any potential environmental hazard, sanitary facilities and waste disposal, lighting and hours of operation, and other issues identified as relevant to the proposed use.
  - D. A transportation management plan shall be submitted to address off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways.
  - E. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
  - F. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of the underlying zoning district.
  - G. All loading and unloading facilities shall be located on the rear or side of the structure and be screened from view from all public roadways and adjacent residential uses in accordance with *Section 7.23 of this Ordinance*.
  - H. Outdoor storage areas shall have durable and dustless surface and be screened from view of public roadways and adjacent uses in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
  - I. A drainage system, reviewed and approved by the County, shall be installed to collect hazardous material run-off.
  - J. An all-weather hard surfaced road shall be provided from the entrance gate of the facility to loading and unloading areas.
  - K. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
  - L. All parking areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
  - M. A water and sewer management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment.
  - N. An operations plan addressing air quality, dust management, sound attenuation and vibration dampening shall be submitted for approval.
  - O. Access to the site shall be controlled to prevent unauthorized dumping.
  - P. In the event that the facility ceases operation, the owner or operator shall close the facility in a manner that prevents the escape of pollutants to ground water or surface waters, to soils or to the atmosphere during post closure periods.
  - Q. The owner or operator may be required to submit a financial guarantee to the County to ensure compliance with the permit and the closure requirements. A financial guarantee in the form of a bond, insurance policy, escrow account or other accepted alternative.
  - R. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
  - S. The placement and operation of Solid Waste Disposal Facilities shall be prohibited in the Shoreland Overlay District.

#### **6.54.2 Solid Waste Transfer Stations**

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- B. A transfer station shall have a lot area no less than four (4) times the area of the building footprint. A disposal facility shall have sufficient lot area to meet all Federal, State and County laws, rules, regulations, ordinances or requirements.
- C. The facility operator or owner shall submit information to the Department regarding the surroundings, any potential environmental hazard, sanitary facilities and waste disposal, lighting and hours of operation and other issues identified as relevant to the proposed use.
- D. A transportation management plan shall be submitted to address off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways.
- E. The use shall comply will all applicable local, state and federal laws, rules, regulations and ordinances.
- F. Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements of the underlying zoning district.
- G. All loading and unloading facilities shall be located on the rear or side of the structure or be screened from view from all public roadways and adjacent residential uses in accordance with *Section 7.23 of this Ordinance*.
- H. Transfer stations may store non-putrescible materials outside of the structure provided the materials are stored in a covered container.
- I. Outdoor storage areas shall have durable and dustless surfaces and be screened from view of public roadways and adjacent uses in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
- J. A drainage system, reviewed and approved by the County, shall be installed to collect hazardous material run-off.
- K. An all-weather hard surfaced road shall be provided from the entrance gate of the facility to loading and unloading areas.
- L. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- M. All parking areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
- N. A water and sewer management plan shall be submitted to address the use of water and the treatment of waste on-site and the impact on the environment.
- O. An operations plan addressing air quality, dust management, sound attenuation and vibration dampening shall be submitted for approval.
- P. Access to the site shall be controlled to prevent unauthorized dumping.
- Q. The owner or operator may be required to submit a financial guarantee to the County to ensure compliance with the permit and the closure requirements. A financial guarantee in the form of a bond, insurance policy, escrow account or other accepted alternative.
- R. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.55 Storage Facilities**

**6.55.1 Performance Standards for a Storage Facility in an Accessory Agricultural Building**

A commercial storage use in an accessory agricultural building shall comply with the performance standards in *Section 6.1 of this Ordinance* (Accessory Buildings – Agricultural), and the following additional standards:

- A. All materials shall be stored within the storage structure.
- B. The structure shall not be subdivided into storage units separated by walls or with separate entrances. Individual, separately locked units shall not be allowed.
- C. The storage structure and surrounding grounds shall be maintained in a clean, orderly and safe manner.
- D. Hazardous materials shall not be stored.
- E. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- F. The site shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- G. The use shall comply with all applicable Federal, State and County rules and regulations.
- H. All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.

**6.55.2 Performance Standards for a Storage Facility in a Commercial or Industrial Zoning District**

A commercial storage use in a Commercial or Industrial zoning district shall comply with the following standards:

- A. All materials shall be stored within the storage structure.
- B. The structure may be subdivided into storage units separated by walls or with separate entrances. Individual, separately locked units are allowed.
- C. The storage structure and surrounding grounds shall be maintained in a clean, orderly and safe manner.
- D. Hazardous materials shall not be stored.
- E. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.
- F. The site shall be served by a minor collector or higher functional classification of roadway, except that the proposed use may be served by a lesser functional class roadway if the responsible road authority grants written permission for such use at the proposed location.
- G. The use shall comply with all applicable Federal, State and County rules and regulations.
- H. All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.

**6.56 Temporary/Secondary Single Family Residential Dwelling Unit****6.56.1 Performance Standards for a Temporary Single Family Residential Dwelling Unit Accessory to an Agricultural Operation**

A temporary single family residential dwelling unit accessory to an agricultural operation shall be subject to the administration requirements of *Section 4.22 of this Ordinance* and the following performance standards:

- A. The temporary single family residential dwelling unit shall be accessory to an agricultural operation.
- B. The dwelling shall be limited to a manufactured home, which shall be maintained as highway ready, and shall be removed when no longer needed as a residence. Highway ready shall mean having the manufactured home on wheels or having the internal jacking system attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks. The manufactured home shall have no permanent structural additions attached.
- C. The temporary single family residential dwelling unit shall be located in the existing farmyard.
- D. The temporary single family residential dwelling unit shall meet the setback requirements of the applicable zoning district.
- E. The temporary single family residential dwelling unit may only be occupied by persons who are engaged in the occupation of farming on the premises or a family member.
- F. The temporary single family residential dwelling unit shall use the existing road access drive of the principal dwelling, unless otherwise approved by the Board.
- G. The temporary single family residential dwelling unit shall be connected to an approved on-site sewage treatment system.
- H. The manufactured home shall be no less than fourteen (14) feet in width, shall bear a Seal of Compliance issued by the State of Minnesota, and meet the requirements of the Minnesota State Building code for manufactured homes.
- I. A temporary single family residential dwelling unit permitted under this section shall not be considered in the calculation of any residential density determination required this Ordinance.
- J. A property shall only be allowed one temporary/secondary single family residential dwelling in accordance with *Section 6.40, Section 6.56.1, Section 6.56.2 or Section 6.56.3 of this Ordinance*. In no case shall more than one (1) temporary/secondary single family residential dwelling unit be allowed on the same parcel.
- K. A signed statement shall be submitted with the provisional use registration declaring that the temporary single family residential dwelling unit shall be removed within 90 days when the demonstrated need for full time help on the farm no longer exists, a family member no longer resides in the temporary single family residential dwelling unit, or the provisional use registration expires.
- L. The temporary single family residential dwelling unit shall be allowed for a maximum of fifteen (15) years.
- M. Temporary single family residential dwelling units permitted as an Interim Use Permit prior to this Ordinance will be addressed as follows: Upon expiration of the interim use permit, the property owner may apply for a new



interim use permit in accordance with *Section 6.56.N of this Ordinance* regardless of the age of the existing home.

- N. The existing home may be declared the temporary home if the existing home is 80 years old or more. In this case the new home does not need to meet *Section 6.56.1 B or Section 6.56.1 H of this Ordinance*. This shall be subject to *Section 4.18 of this Ordinance, or successor ordinance*; or record a Declaration of Restriction declaring the existing home as the temporary single family residential dwelling unit.
- O. A financial guarantee in the name of Stearns County for the sum of \$2000 shall be required to ensure proper removal of the temporary single family residential dwelling unit.

#### **6.56.2 Performance Standards for a Secondary Single Family Residential Dwelling Unit Accessory to an Agricultural Operation**

A secondary single family residential dwelling unit accessory to an agricultural operation shall be subject to the administration requirements of *Section 4.18 of this Ordinance* and the following performance standards:

- A. The secondary single family residential dwelling unit shall be accessory to an agricultural operation.
- B. The secondary single family residential dwelling unit shall meet the setback requirements of the applicable zoning district. The secondary single family residential dwelling unit shall be located a minimum of two hundred (200) feet from the existing residential dwelling unit on the property.
- C. The secondary single family residential dwelling unit may only be occupied by persons who are engaged in the occupation of farming on the premises or a family member.
- D. The secondary single family residential dwelling unit shall be connected to an approved on-site sewage treatment system.
- E. Any manufactured home to be used as a secondary single family residential dwelling unit shall be no less than fourteen (14) feet in width and shall bear a Seal of Compliance issued by the State of Minnesota.
- F. Residential density shall be available for the secondary single family residential dwelling unit and shall be considered in the calculation of any residential density determination required in this Ordinance.
- G. A property shall only be allowed one temporary/secondary single family residential dwelling in accordance with *Section 6.39, Section 6.56.1, Section 6.56.2 or Section 6.56.3 of this Ordinance*. In no case shall more than one (1) temporary/secondary single family residential dwelling unit be allowed on the same parcel.
- H. The property must be able to be legally subdivided to create one lot for the primary dwelling and a separate lot for the secondary dwelling. At the time of the subdivision, all applicable setbacks shall be met including the feedlot setback.
- I. A condition shall be placed on the permit that indicates that a change in status of either occupant of the dwellings from farm help or a family member will require a subdivision of said property in accordance with *Stearns County Subdivision Ordinance 230 or successor ordinance*.

- J. Upon the expiration of the IUP, the property to be split shall be subdivided in accordance with standards of *Stearns County Land Use and Zoning Ordinance 439* and *Subdivision Ordinance 230* in place at the time of the actual subdivision. The lots to be created will not need to meet the current zoning district requirements for lots at the time of the actual subdivision, but the lots created must meet the documented zoning district requirements that existed at the time of application for the IUP.

#### **6.56.3 Performance Standards for a Temporary Single Family Residential Dwelling Unit for Supportive Care**

A temporary single family residential dwelling unit for supportive care shall be subject to the administration requirements of *Section 4.18 of this Ordinance* and the following performance standards:

- A. The temporary single family residential dwelling unit shall be accessory to the principal dwelling.
- B. The temporary single family residential dwelling unit shall be located in the existing building site.
- C. The temporary single family residential dwelling unit shall meet the setback requirements of the applicable zoning district.
- D. The occupant(s) of either the temporary single family residential dwelling unit or the permanent dwelling must be a family member
- E. The applicant shall submit with the application and annually thereafter a statement signed by a medical professional certifying that the occupant(s) of either the temporary single family dwelling unit or the permanent dwelling suffers from health problems that would necessitate supervised care and attention. The statement shall describe the need that makes it necessary for the family member to live on the same parcel.
- F. The dwelling shall be limited to a manufactured home, which shall be maintained as highway ready, and shall be removed when no longer needed as a residence. Highway ready shall mean having the manufactured home on wheels or having the internal jacking system attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks. The manufactured home shall have no permanent structural additions attached.
- G. The temporary single family residential dwelling unit shall use the existing road access drive of the principal dwelling.
- H. The temporary single family residential dwelling unit shall be connected to an approved on-site sewage treatment system.
- I. The mobile home shall be no less than fourteen (14) feet in width and shall bear a Seal of Compliance issued by the State of Minnesota.
- J. Upon termination of the interim use permit, the temporary single family residential dwelling unit shall be removed from the premises within thirty (30) days.
- K. A temporary single family residential dwelling unit shall not be considered in the calculation of any residential density determination required this Ordinance.
- L. A property shall only be allowed one (1) temporary single family residential dwelling in accordance with *Section 6.40*, *Section 6.56.1* or *Section 6.56.2 of*

*this Ordinance.* In no case shall more than one (1) temporary single family residential dwelling unit be allowed on the same parcel.

- M. A temporary single family residential dwelling unit shall not be located a property that is zoned Residential 1 and located in the Shoreland Overlay District.

## **6.57 Temporary Use Sites in Licensed Resorts and Campgrounds**

### **6.57.1 Performance Standards**

Temporary use sites may be allowed within licensed resorts and campgrounds subject to the administrative requirements of *Section 4.22 of this Ordinance* and the following performance standards:

- A. The number of temporary use sites allowed shall not exceed one (1) per every ten (10) sites for which the property is licensed.
- B. Temporary use sites may be allowed up to four (4) times a year not to exceed four (4) consecutive days per event. The temporary use sites shall remain vacant between designated events. The events and corresponding dates of use shall be designated by the applicant on the annual license application.
- C. For resorts/campgrounds within the shoreland overlay district, no temporary use sites shall be allowed within the first tier. Shoreland tier dimensions are outlined in *Section 10.2.23 G (1) of this Ordinance*.
- D. The sub-surface sewage treatment system(s) shall be designed and constructed to handle the addition of temporary use sites.
- E. A location of a dump station shall be designated.
- F. A to-scale drawing shall be submitted showing the proposed size and location of the temporary use sites in relation to the existing sites and other structures and facilities on the property.
- G. Lot coverage cannot exceed twenty-five (25) percent with the addition of temporary use sites.
- H. Temporary use sites shall be limited to transient use only as defined in *Stearns County Ordinance Number 187; or successor ordinance*.
- I. There shall be no increase in the number or size of shore recreation facilities to accommodate the temporary use sites.

### **6.57.2 License Required**

Temporary use sites in licensed resorts and campgrounds shall be subject to licensure by the County and shall meet the requirements of *Stearns County Ordinance Number 187; or successor ordinance*.

## **6.58 Truck Terminal, Large**

### **6.58.1 Performance Standards**

Large Truck Terminals shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. A large truck terminal shall be a principle industrial use.
- B. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional

- class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- C. The parcel shall have a lot area of no less than two (2) acres.
  - D. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
  - E. Buildings shall meet the setback requirements of the applicable zoning district.
  - F. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear or side of the primary structure. When the adjacent use is not industrial, storage areas shall be fenced and adequately screened from adjacent land uses and public roadways in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
  - G. A transportation management plan shall be submitted to address off-street parking, loading and unloading, internal circulation, traffic control and the impact of the facility on surrounding roadways. The transportation management plan shall include estimates of the number and type of vehicles using the parcel daily and monthly, the times of day when the highest and lowest number of vehicles will be present, and other information deemed relevant to assess potential transportation impacts.
  - H. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan, consistent with *Section 7.25 of this Ordinance*, shall be submitted to address the impact of the facility on the environment.
  - I. All parking areas, turning areas, loading areas and access drives to parking and loading areas shall be durable and dustless.
  - J. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
  - K. Any exterior lighting shall comply with *Section 7.15 of this Ordinance*.
  - L. The hours of operation shall not have an adverse impact on adjacent property owners.
  - M. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.59 Truck Terminal, Small**

### **6.59.1 Performance Standards**

Except as provided in *Section 9.10.2 and 9.11.2 of this Ordinance*, small truck terminals shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. No more than five (5) commercial trucks shall be present on the property at any time.
- B. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- C. All trucks shall be owned by the property owner.
- D. The area dedicated to the truck terminal shall be located in proximity to existing buildings and shall not exceed 20,000 square feet in size.

- E. The business use shall be clearly incidental and subordinate to the residential use of the property.
- F. Operation of the small truck terminal business shall be limited to the residential dwelling and accessory or agricultural buildings on the same parcel.
- G. Areas used for the outdoor display or storage of goods, equipment, vehicles, or other materials shall be located to the rear of the structure and further buffered from adjacent residential uses with landscaping, fencing or other acceptable methods of screening in accordance with *Section 7.23 of this Ordinance*.
- H. The small truck terminal shall not generate excessive customer or client traffic that is detrimental to the character of the surrounding properties.
- I. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- J. The small truck terminal shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
- K. The small truck terminal at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.

## **6.60 Vacation/Private Home Rental**

### **6.60.1 Performance Standards**

A Vacation/Private Home Rental shall be subject to the administrative requirements of *Section 4.18 of this Ordinance* and the following performance standards:

- A. Submittal of an application signed by the property owner and including the following: a current water test from an accredited laboratory with test results for nitrate-nitrogen and coliform bacteria, a compliance inspection of the existing sub-surface sewage treatment system and a to-scale drawing of the location and dimensions of the structure intended for licensing and all associated accessory structures, parking areas, shore recreation facilities and sewage treatment systems.
- B. The occupancy of a Vacation/Private Home Rental shall be limited to no more than two persons per bedroom plus two additional persons per building, not to exceed a maximum of twelve (12) persons; or no more than one (1) person for every fifty (50) gallons of water per day that the building's sub-surface sewage treatment system is designed to handle, whichever is less.
- C. Parking shall meet the requirements of *Section 7.19 of this Ordinance*. Designated parking areas shall be off-street parking.
- D. On premise signs are prohibited.
- E. The Vacation/Private Home Rental shall be connected to an approved sub-surface sewage treatment system. The sub-surface sewage treatment system shall be designed and constructed with a design flow of fifty (50) gallons of water per person per day to handle the maximum number of guests for which the facility is permitted. The sub-surface sewage treatment system shall include a flow measurement device. Flow measurement readings and

monitoring of the sub-surface sewage treatment system shall be recorded monthly and records shall be made available to the Department upon request. The use of holding tanks for Vacation/Private Home rental units shall be prohibited.

- F. Rental of recreational vehicles shall not be allowed.
- G. The Planning Commission may impose conditions that will reduce the impact of the proposed use on neighboring properties and nearby waterbodies. Said conditions may include but not be limited to a fence or vegetative screening along a property line or a native buffer along the shoreline.
- H. The owners of Vacation/Private Home Rentals shall ensure that the noise standards of *Minnesota Rules, chapter 7030; or successor rules*, are met. The Planning Commission may impose a quiet hours standard in order to assist in achieving this goal and to reduce the potential impacts on neighboring properties.
- I. The owners of Vacation/Private Home Rentals shall, at a minimum, comply with *Minnesota Statutes, chapter 504B; or successor statute* and make available to all tenants the Minnesota Attorney General's annual statement summarizing the significant legal rights and obligations of landlords and residential tenants, as described in *Minnesota Statutes, section 504B.275; or successor statute*.
- J. The licensee shall keep a report, detailing use of the home by recording, at a minimum, the name, address, phone number and vehicle license number of all guests using the property. A copy of the report shall be provided to the Department upon request.
- I. No more than two Vacation/Private Home rentals will be allowed on a parcel. Construction of more than one single family dwelling unit or Guest Cottage shall only be allowed on a parcel that meets the requirements of *Sections 10.2.8 and 10.2.12 of this Ordinance*. More than two Vacation/Private Home rentals on the same parcel or on contiguous parcels under common ownership shall constitute a resort and must meet the standards set forth in *Section 10.2.23 of this Ordinance*.

#### **6.60.2 License Required**

A Vacation/Private Home Rental shall be licensed by the County and shall meet the requirements of *Stearns County Ordinance Number 204; or successor ordinances*.

### **6.61 Warehousing, Storage, Distribution and Wholesale Facilities**

#### **6.61.1 Performance Standards**

Except as provided in *Section 9.11.2 of this Ordinance*, warehousing, storage, distribution and/or wholesaling facilities shall be subject to the administrative requirements of *Section 4.8 of this Ordinance* and the following performance standards:

- A. The site shall be served by a minor arterial or higher functional class of roadway, except that the proposed use may be served by a lesser functional

class of roadway if the responsible road authority grants written permission for such use at the proposed location.

- B. The parcel shall have a lot area no less than four (4) times the area of the building footprint.
- C. The use shall comply with all applicable local, state and federal laws, rules, regulations and ordinances.
- D. Buildings shall meet the setback requirements of the applicable zoning district.
- E. All loading and unloading facilities shall be located on the rear or side of the structure and be screened from view from residential uses.
- F. Outdoor storage areas may be allowed as an accessory use provided they are located to the rear or side of the structure, fenced and adequately screened from adjacent land uses and public roadways in accordance with *Sections 6.47 and 7.23 of this Ordinance*.
- G. A retail sales area may be allowed as an accessory use provided that sales are limited to the sale of goods produced on-site and the retail sales area does not occupy more than twenty (20) percent of the principal structure.
- H. A transportation management plan shall be submitted to address off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways.
- I. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of waste on-site and a storm water and drainage plan shall be submitted to address the impact of the facility on the environment.
- J. Parking shall meet the requirements of *Section 7.19 of this Ordinance*.
- K. All parking areas, loading areas and access drives to parking and loading areas shall be hard surfaced.
- L. Any exterior lighting shall comply with *Section 7.15 of this Ordinance*.
- M. The hours of operation shall not have an adverse impact on adjacent property owners.
- N. Signs shall meet the requirements of *Section 7.24 of this Ordinance*.

## **6.62 Wind Energy Conversion Systems (WECS)**

### **6.62.1 Purpose**

- A. The purpose of this section is to set forth a process for permitting wind energy conversion systems (WECS) and meteorological towers (MT) not otherwise subject to siting and oversight by the State of Minnesota under the *Minnesota Power Plant Siting Act, Minnesota Statutes, section 216F.01-216F.081; or successor statutes*.

### **6.62.2 Procedures**

- A. Applicants requesting a construction site permit, interim use permit or conditional use permit for a WECS greater than 1kw or MT shall furnish the Department the following information: a site plan showing lot lines, the accurate location of all buildings and structures on the site and on each adjacent lot, the proposed location of the WECS or MT and any related guy wires, poles or anchors, interconnection points with the electrical grid, and a

- sketch elevation of the premises accurately depicting the proposed WECS or MT and its relationship to structures on adjacent lots;
- B. An analysis of the impact of the proposed WECS locations on the ability of adjoining property owners to site WECS on their property;
  - C. For WECS less than 40kw, the Department will send notification to all communication tower operators within ¼ mile of the proposed WECS. For WECS 40kw or more, documentation that the applicant notified all communication tower operators within 5 miles of the proposed WECS location and that the proposed WECS will minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions. The burden of proof shall be placed on the applicant to document that the proposed WECS will not interfere with the line of sight of other towers;
  - D. Location of existing or proposed access roads;
  - E. For WECS over 40kw, evidence of power purchase contracts, if applicable;
  - F. Manufacturer's description of all equipment;
  - G. Location of wetlands, scenic and natural areas and shoreland within 1,320 feet of the proposed WECS or MT;
  - H. An acoustical analysis;
  - I. A decommissioning plan;
  - J. A description of potential impacts on nearby WECS and communication equipment;
  - K. Means of interconnecting with the electrical grid;
  - L. For WECS that are 5mw - 25mw, the latitude and longitude of individual wind turbines, 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, and an FAA permit application.
  - M. Applicants requesting a construction site permit or conditional use permit for a micro-WECS shall furnish the Department the following information: a site plan showing lot lines, the accurate location of all buildings and structures on the site, setbacks, and the proposed location of the micro-WECS.

#### **6.62.3 Aggregated Projects – Procedures**

- A. Proposers of Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews and as appropriate approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project. Aggregated projects having a combined capacity equal to or greater than the threshold for State oversight as set forth in *Minnesota Statutes 216F.01 through 216F.08; or successor statutes*, shall be regulated by the State of Minnesota.

#### **6.62.4 District Regulations**



- A. WECS and MT may be allowed as a permitted, interim or conditional use, or not permitted based on the generating capacity and/or zoning district as established in the table below:

<b>District</b>	<b>Micro-WECS</b>	<b>1.1kw-5.99kw</b>	<b>6kw-40kw</b>	<b>40.01kw-4.99mw</b>	<b>5mw and larger</b>	<b>Meteorological Towers</b>
A-160	Permitted	Permitted	Permitted	CUP	CUP	IUP
A-80	Permitted	Permitted	Permitted	CUP	CUP	IUP
A-40	Permitted	Permitted	Permitted	CUP	CUP	IUP
T-20	Permitted	Permitted	Permitted	CUP	Not Permitted	IUP
<b>District</b>	<b>Micro-WECS</b>	<b>1.1kw-5.99kw</b>	<b>6kw-40kw</b>	<b>40.01kw-4.99mw</b>	<b>5mw and larger</b>	<b>Meteorological Towers</b>
R-20	Permitted	Permitted	CUP	Not Permitted	Not Permitted	Not Permitted
R-10	Permitted	Permitted	CUP	Not Permitted	Not Permitted	Not Permitted
R-5	Permitted	Permitted	CUP	Not Permitted	Not Permitted	Not Permitted
R-1	Permitted	Permitted	CUP	Not Permitted	Not Permitted	Not Permitted
Rural Townsite	Permitted	Permitted	CUP	Not Permitted	Not Permitted	Not Permitted
Commercial	Permitted	Permitted	CUP	CUP	Not Permitted	IUP
Industrial	Permitted	Permitted	Permitted	CUP	CUP	IUP
Educational/Ecclesiastical	Permitted	Permitted	CUP	CUP	CUP	IUP
Scenic River	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Residential Manufactured Home	Conditional	Conditional	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Urban Expansion	Permitted	Permitted	CUP	Not Permitted	Not Permitted	IUP
Shoreland Overlay	Permitted	Permitted	Permitted	Not Permitted	Not Permitted	Not Permitted

#### 6.62.5 Setbacks

- A. All WECS and MT shall adhere to the setbacks established in the table below. Setbacks for WECS 40kw and smaller are measured from the base of the tower. Setbacks for WECS 40.01kw and larger are measured from the tip of the blade when the blade is extended perpendicular to the tower.

	<b>Micro-WECS</b>	<b>1.1kw-5.99kw</b>	<b>6kw-40kw</b>	<b>40.01kw-4.99mw</b>	<b>5mw and larger</b>	<b>Meteorological Towers</b>

<b>Property Lines<sub>1</sub></b>	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height	1.1 times the total height
<b>Right of Way</b>	1.1 times the total height	1.1 times the total height	1.1 times the total height	250 feet	250 feet	1.1 times the total height
<b>Occupied Structure – participating property owner<sub>2</sub></b>	1.1 times the total height	1.1 times the total height	200 feet or 1.1 times the total height whichever is greater	500 feet and sufficient distance to meet the state noise standard	500 feet and sufficient distance to meet the state noise standard	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
	<b>Micro-WECS</b>	<b>1.1kw-5.99kw</b>	<b>6kw-40kw</b>	<b>40.01kw-4.99mw</b>	<b>5mw and larger</b>	<b>Meteorological Towers<sub>5</sub></b>
<b>Occupied Structure – non-participating property owner<sub>2</sub></b>	1.1 times the total height	1.1 times the total height	200 feet or 1.1 times the total height whichever is greater	1000 feet and sufficient distance to meet the state noise standard	1000 feet and sufficient distance to meet the state noise standard	The fall zone, as certified by a professional engineer + 10 feet or 1.1 times the total height.
<b>Project Boundary<sub>3</sub></b>				5 times the rotor diameter <sub>4</sub>	5 times the rotor diameter <sub>4</sub>	
<b>Internal Turbine Spacing<sub>6</sub></b>				5 rotor diameters downwind spacing, 3 rotor diameters apart for crosswind spacing	5 rotor diameters downwind spacing, 3 rotor diameters apart for crosswind spacing	

- 1 A recorded fall zone easement acceptable to the Department may be allowed in lieu of the required setback, provided all other setbacks are met.
- 2 For the purposes of this Section, an occupied structure shall include, but is not limited to, structures such as residential dwelling units, schools, churches and places of business. In instances where a fall zone easement has been recorded, the occupied structure setback is not required. For WECS 40kw or less, the setback for an occupied structure does not apply to structures on the same parcel as the WECS.
- 3 Project boundary shall include all parcels of land which have a wind easement for one wind project.
- 4 It has been documented that the most important directions to access wind for energy production is north, northwest, southwest, and south therefore the Board may authorize a setback of less than 5 times the rotor diameter if the applicant demonstrates that due to the wind direction, the wake interference is less than 5 rotor diameters.
- 5 Meteorological towers in conjunction with a wind energy project between 5mw and 25mw shall be placed no closer than 250 feet from the edge of the road right-of-way and from the boundaries of the developer's site control.
- 6 If required during final micro siting of the turbine towers to account for topographic conditions, up to 20 percent of the towers may be sited closer than the above spacing but the permittee shall minimize the need to site the turbine towers closer.

**B. Substations and accessory facilities**

- (1) Minimum setback standards for substations and feeder lines shall be consistent with the standards for essential services established in *Section 7.11 of this Ordinance*. For purposes of this Section, substations are defined as any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 volts (35KV) for interconnection with high voltage transmission lines shall be located outside of the road right-of-way.

#### **6.62.6 Requirements and Standards**

##### **A. Safety Design Standards.**

- (1) Engineering Certification. The manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS or MT is within accepted professional standards, given local soil and climate conditions.
- (2) Clearance. Rotor blades or airfoils must maintain at least twenty-five (25) feet of clearance between their lowest point and the ground.
- (3) All WECS or MT utilizing a tower as the support structure shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high unclimbable fence with a secured access.
- (4) Maintenance. All WECS and MT must have routine maintenance as recommended by the manufacturer and at a minimum of once every three (3) years. A copy of the maintenance report shall be filed with the Department. Maintenance must be completed by a qualified individual acceptable to the Department.

##### **B. Total Height.** Total height of the WECS is measured as the highest point, above ground level, reached by a rotor tip or any other part of the WECS. All WECS that are less than 40Kw must be less than two hundred (200) feet in total height, unless approved pursuant to *Section 4.8 of this Ordinance*. The total height of the MT is measured to the highest point of the tower.

##### **C. Tower Configuration.**

- (1) All WECS with a rating greater than 40Kw must use self supporting towers. The base for such towers shall be designed to anchor and support the tower for the site, and is further subject to *Section 6.62.6A(1) of this Ordinance*.
- (2) Meteorological towers and WECS with a rating of 40Kw or less may be guyed provided the guy wires are protected by fencing or other means to protect the safety of the users of the property.

##### **D. Design.** To the extent feasible, projects involving multiple WECS shall consist of turbines of similar design, height and size. All turbines shall rotate in the same direction and shall be consistent in design, color and rotational direction with adjacent facilities.

##### **E. Noise.** WECS shall, at a minimum, meet the noise standard of *Minnesota Rules, chapter 7030; or successor rules*. Additional, local limits relative to impulsive and pure tone noises may be imposed if the Planning Commission determines it is appropriate and necessary to protect the public health and welfare.

- F. Feeder Lines. All feeder lines used to collect power from individual turbines and all associated communication lines shall be buried underground. Exemptions may be granted by the Department in instances where shallow bedrock interferes with the ability to bury lines. Feeder lines installed as part of a WECS shall not be considered an essential service.
- G. Color and Finish. All wind turbines and towers that are part of a 5mw or larger project 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 for meteorological towers, where concerns exist relative to aerial spray applicators.
- H. Decommissioning. Applications for WECS above 5Kw and MT shall include a decommissioning plan to ensure that facilities are properly removed after their useful life. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Director outlining the steps and schedule for returning the WECS to service. Decommissioning shall be completed within one hundred twenty (120) days. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a cost estimate 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. Disposal of structures and/or foundations shall meet the provisions of *Stearns County Solid Waste Ordinance Number 171; or successor Ordinance*. In the case of facilities requiring a conditional use permit or interim use permit, the Planning Commission may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.
- I. Orderly Development. Upon issuance of a conditional use permit, all owners of 5mw - 25mw WECS shall notify the Minnesota Public Utilities Commission Power Plant Siting Act program staff of the project location and details.
- J. Minimum Standards.
  - (1) All WECS and MT shall be in compliance with any applicable local, state and federal regulatory standards, including the following:
    - (a) The *State of Minnesota Uniform Building Code, as amended*; and
    - (b) The *National Electric Code*, as amended; and
    - (c) Any applicable MNDOT Department of Aviation and Federal Aviation Administration requirements.
    - (d) Setbacks from private air strips shall be determined on a case by case basis.
  - (2) Equipment for all WECS and MT shall conform to the applicable industry standards, including the *American Wind Energy Association Standard for Wind Turbine Design* and related standards adopted by the *American National Standards Institute (ANSI)*.

- (3) All WECS to be installed shall be equipped with redundant braking systems, including aerodynamic, variable pitch overspend controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of loss of load on the generator. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- (4) Lighting of WECS and MT, 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.
- (5) WECS and MT shall be located such that they do not cause interference with legal commercial or private telecommunication devices including, but not limited to radios, televisions, telephones, personal communication devices and other electronic equipment or devices in accordance with the Federal Communications Commission.
- (6) Each WECS or MT shall have one (1) sign not exceeding three (3) square feet posted at the base of the tower specifying the following information: warning, high voltage; manufacturer's name; and emergency phone numbers. No other signage is permitted on a WECS or MT.
- (7) All applicants shall identify all county, city or township roads or drainage systems to be impacted by or used for the purpose of transporting any equipment or supplies related to construction, operation and maintenance of a WECS or MT and obtain applicable weight and size permits from the applicable road authority(ies) prior to construction. The applicant shall conduct a pre-construction survey with the local road and drainage authority(ies) to determine existing road conditions and the conditions of any drainage utilities potentially impacted and shall document said conditions photographically and thereafter enter into a written agreement with the appropriate road and drainage authority(ies) to document the road and/or drainage utility conditions. The applicant is responsible for restoring roads, bridges or drainage utilities to preconstruction conditions or for paying damages as agreed to by the applicable road and drainage authority(ies).
- K. The Department may choose to consult with outside agencies and/or consultants to determine if the application meets the requirements of this ordinance, state and federal laws. Any charges of fees resulting from such consultation will be the responsibility of the applicant for payment.
- L. For wind energy conversion systems between 5mw and 25mw, the applicant shall follow the *Minnesota Department of Commerce Large Wind Energy Conversion System General Wind Turbine Permit Setbacks and Standards; or successor standards* attached as *Appendix B of this Ordinance*. All setbacks shall conform to *Section 6.62.5A of this Ordinance*.
- M. Shadow Flicker Modeling. Modeling for shadow flicker from wind energy conversion systems 5mw or larger shall include the following parameters. The modeling shall assume the sky is always clear with no cloud cover or fog; the turbines are oriented perpendicular to the sun one hundred (100)

percent of the time and changes in wind direction are not considered; the turbine is continuously turning; shielding effects of close obstacles like trees or topography are not considered.

## **SECTION 7            GENERAL DEVELOPMENT STANDARDS**

### **7.0    Application**

The regulations contained in this Section apply to all structures and land use, and are in addition to any specific zoning district requirements of this Ordinance. They are established to minimize conflict between land uses, to preserve the use and enjoyment of property, to encourage a high standard of development and to protect the public health, safety and welfare.

No use or structure shall be operated or occupied so as to constitute a dangerous, injurious or noxious condition because of fire, explosion or other hazard, noise, vibration, smoke, dust, fumes, odor or other air pollution, light, glare, heat, electrical disturbance, liquid or solid refuse or waste, water or soil pollution or other substance or condition. No use or structure shall unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities. In addition, no use or structure shall be operated or occupied in a manner not in compliance with any standard contained in this Ordinance or any other applicable regulation.

### **7.1    Access and Driveways**

#### **7.1.1    New, Revised or Changed Use Accesses onto County Roads**

All new, revised or change of use accesses onto County roads shall be subject to the access and corridor protection guidelines of the Stearns County Comprehensive Plan. The Public Works Director shall determine the appropriate location, size and design of such accesses and may limit the number of accesses in the interest of public safety and efficient traffic flow. Accesses on any County highway shall require a driveway access permit from the Stearns County Public Works Director. Issuance of a driveway access permit from the Stearns County Public Works Director shall be precedent to the issuance of any construction site or use permit.

#### **7.1.2    Access to State Highways**

Accesses on any state highways shall require the approval of the Minnesota Department of Transportation (MNDOT).

#### **7.1.3    Access to Township Roads**

Accesses on any township road shall, if required, require the approval of the appropriate Township Board of Supervisors.

### **7.2    Agricultural Operations**

All agricultural operations in the Agricultural Districts being conducted in compliance with the terms of this Ordinance and other applicable state and federal regulations shall not be deemed a violation of this Ordinance regardless of the fact that there may have been changes in the surrounding character of the area.

### 7.3 Closed Landfills and Dumpsites

#### 7.3.1 Development Standards

The following standards apply to closed landfills and dumpsites, and associated contaminated or at risk areas that have not been remediated or reclaimed under the Minnesota Pollution Control Agency (MPCA) Voluntary Investigation and Cleanup (VIC) program or other MPCA environmental response remediation program.

- A. MPCA Ownership or Environmental Response Agreement.** If the closed landfill is owned by or has a remediation easement, covenant or binding agreement controlled by the MPCA, allowed use of the land and all land disturbing activities are limited to those activities or uses specifically allowed under the MPCA Land Use Plan (LUP).
- (1) **Development Prohibited on Groundwater Plumes, Methane Areas of Concern.** No development or construction is permitted on areas surrounding a closed landfill site that have been identified as areas on top of a groundwater plume or a methane area of concern.
  - (2) **Groundwater Areas of Concern.** Within mapped groundwater areas of concern, all applicants for residential subdivisions or permits for new dwelling units must provide a hydrologic analysis demonstrating that the development will not alter the normal groundwater flows or accelerate the movement of contaminated groundwater. For drinking water supply prior to final plat approval, a comprehensive water test must be submitted to the Department for all plats, residential and non-residential. The water test must be taken by an independent state approved laboratory and must show that the state drinking water levels are met.
- B. Dumpsites not under MPCA Remediation Plan.** For dumpsites without an MPCA LUP, all activities on the dumpsite must protect the integrity of any existing or planned remediation systems and the ability to take environmental response actions at the landfill.
- (1) **No Development on Landfills or Dumpsites.** No development activities are allowed at any point on a closed landfill or dumpsite or within four hundred (400) feet of a landfill or dumpsite. Development closer than four hundred (400) feet is allowed only upon demonstration to the satisfaction of the Director that water and methane risk is inconsequential.
  - (2) **Testing Required.** All applications for subdivision or construction of new dwellings that includes a closed landfill or dumpsite on the lot or in the subdivision, or is within one thousand (1,000) feet of a closed landfill or dumpsite, must document that no contamination plume is within any area slated for development.
  - (3) **Documentation Required.** An affidavit must be filed with the County Recorder in the following circumstances:



- (a) When the landfill or dumpsite is within a proposed subdivision, the applicant must record a notarized affidavit with a detailed description of the dump with the County Recorder. This document shall include a legal description of the boundaries of the filled area, the size of the filled area in acres, the depth of fill and anything that is known about the types of waste buried. The affidavit should also reference any investigation reports.
    - (b) When the closed landfill or dumpsite is off the site of the proposed subdivision or new dwelling units, but is within one thousand (1,000) feet of any proposed residential lot, the applicant must record a notarized affidavit stating knowledge of the landfill or dumpsite.
  - (4) **Managing Landfill Sites.** A closed landfill or dumpsite without a LUP within a proposed development must be managed consistent with MPCA's *Best Management Practices for Minnesota's Old Dumps, or most recent version*, including the following:
    - (a) **Remove surface debris.** All surface debris must be removed in accordance with MPCA and County standards.
    - (b) **Vegetate Landfill Surface Soil.** All portions of the landfill site must have a complete native vegetative cover. Vegetation reduces runoff and erosion, provides habitat and improves the appearance of the property.
  - (5) **Additional Conditions.** The Department may impose conditions on any land use permit or subdivision within one thousand (1,000) feet of a closed landfill or dumpsite to protect public health and safety. Conditions may include, but are not limited to:
    - (a) Prohibiting uses or limiting allowed uses;
    - (b) Limiting location or technology of individual drinking water wells;
    - (c) Limiting the movement, excavation, and removal of soil and underground materials.
- C. **Participation in VIC.** All uses and development activities allowed under the zoning district and overlay districts, if applicable, that are consistent with a final determination under the MPCA Voluntary Investigation and Cleanup Program are allowed on dumpsites and surrounding contaminated ground. All design and engineering standards stipulated in the final VIC determination must be followed in the development process.

## 7.4 Cluster Development Standards

### 7.4.1 Purpose

The purpose of the cluster development standards is to concentrate residential lots in rural development and allow an equivalent land area to remain in agricultural production or open space. The cluster development standards implement the following Comprehensive Plan goals:

- A. Land Use Plan, Goal 1 Objective 2: Preserve highly-valued farmland for agricultural pursuits.
- B. Natural Resources Plan Goal 3 Objective 1: Protect agricultural soils and other agricultural resources by regulating non-agricultural land uses in areas with agricultural soils.

#### 7.4.2 Applicability

- A. **Cluster development required.** Cluster development as provided in *Section 7.4 of this Ordinance* shall be required in the A-160, A-80 and A-40 primary zoning districts, unless the parcel proposed to be subdivided meets one of the following exemption criteria:
  - (1) The lot is forty (40) acres or greater,
  - (2) The lot is a full quarter-quarter section,
  - (3) The lot is a complete Government Lot,
  - (4) The lot is not tillable and is greater than two (2) acres
  - (5) The subdivision is within the Conservation Subdivision Overlay and is submitted as a Conservation Subdivision consistent with *Section 10.3 of this Ordinance*.
  - (6) The subdivision is a minor subdivision pursuant to *Stearns County Ordinance Number 230; or successor ordinance*.
- B. **Cluster development discretionary.** Cluster developments as provided in *Section 7.4 of this Ordinance* shall be discretionary in the T-20, R-20, R-10 and R-5 primary zoning districts.

- 7.4.3 Density Bonus.** To be eligible for the density bonus, the property under consideration must be eligible for at least two (2) residential dwelling sites, exclusive of the density bonus. Cluster developments in the R-10 or R-5 primary zoning districts are eligible for a fifty (50) percent increase in residential density. To achieve a fifty (50) percent increase in residential density, multiply the eligible residential dwelling sites, as determined in each primary zoning district including the fraction, by one and one-half (1 ½). Fractions of less than one-half (½) shall be reduced to the nearest whole number and fractions of one-half (½) or greater shall be increased to the nearest whole number. Cluster developments in the A-160, A-80, A-40, T-20 or R-20 primary zoning districts are not eligible for a density bonus.

#### 7.4.4 Lot Area Requirements

- A. All lots within a cluster development shall meet the following lot area requirements within the designated primary zoning or any applicable overlay district:
  - (1) The minimum lot area in all Districts is one ( 1) acre
  - (2) In the A-160, A-80, A-40, T-20 or R-20 primary zoning districts the minimum area restricted as open space or agriculture shall be eighty (80) percent of the acreage required (platted area plus the equivalent land area) for the residential density being used. See *Appendix E of this Ordinance* for an illustration of this requirement. In the R-10 or R-5 primary zoning districts the minimum area restricted as open space or

agriculture shall be sixty (60) percent of the acreage required (platted area plus the equivalent land area) for the residential density being used.

- (3) The maximum tillable farmland on residential lot area is two (2) acres in Agricultural Districts, unless in the judgment of the Director the tillable farmland is separated from other tillable farmland by natural or manmade boundaries, such as roads, woods, property lines, ditches or streams and the intent of the cluster development siting standards is met.
- (4) On Natural Environment Lakes, the minimum lot size shall be eighty thousand (80,000) square feet to meet the minimum lot size required by *Section 10.2.8 A(1) of this Ordinance*.

- B.** Lots created pursuant to Section 7.4 of this Ordinance after January 27, 2005 shall not be increased in size by means of an Administrative Subdivision or plat to exceed the maximum allowable lot area as specified in *Section 7.4.4 of this Ordinance*.

#### **7.4.5 Minimum Size of Cluster Development**

The minimum cluster development size shall be at least two (2) single family residential dwelling sites.

#### **7.4.6 Lot Coverage**

The maximum lot coverage of any lot in a cluster development shall be no more than twenty-five (25) percent.

#### **7.4.7 Density Transfer**

The number of single family residential dwelling unit sites that may be transferred into a proposed subdivision site in order to develop a cluster development shall be consistent with residential density limitations of the primary zoning district or any applicable overlay district.

#### **7.4.8 Cluster Development Review and Consideration**

- A.** A cluster development shall be considered in the same manner as a conventional subdivision plat.
- B.** A preliminary subdivision plat shall be filed and processed in accordance with the procedures for processing a subdivision plat established in *Stearns County Ordinance Number 230; or successor ordinance*.

#### **7.4.9 Cluster Development Siting Standards**

- A.** Cluster developments shall meet the residential siting requirements established in *Section 7.33.1C of this Ordinance* and shall be sited to achieve the following goals, to the extent practicable:
  - (1) Avoid prime farmland soils, tillable farmland and large tracts of land in agricultural use; and
  - (2) Avoid interference with agricultural operations; and
  - (3) Minimize the fragmentation of agricultural land; and

- (4) Minimize disturbance to woodlands or other significant stands of vegetation; and
  - (5) Avoid encroaching upon or disturbing native plant communities identified in the Department of Natural Resources' *County Biological Survey for Natural Communities and Rare Species*; and
  - (6) Result in contiguous tracts. Cluster developments shall only be allowed where land features and topography allow for contiguous tracts to be sited unless, in the judgment of the Planning Commission according to *Section 7.4.9C of this Ordinance*, noncontiguous tracts would result in less fragmentation of tillable farmland; and
  - (7) Protect scenic views of open land from adjacent roads; and
  - (8) The Resource Suitability Model and/or the Land Evaluation Site Assessment (LESA) system shall be used in siting cluster developments.
- B. To meet the above stated goals, the following process shall be used to site the cluster development. This process shall be completed before a preliminary plat is developed.
- (1) Identify all potential conservation areas. The natural features of the area proposed to be developed, including the equivalent land area, if any, shall be identified. The Department shall supply maps showing the following natural features:
    - (a) Woodlands
    - (b) Wetlands and floodplain
    - (c) Historic, archaeological and cultural features
    - (d) Significant natural areas as shown on the *County Biological Survey*
    - (e) Slopes of twenty-five (25) percent and greater
    - (f) Soil types, including tillable farmland
    - (g) Adjacent agricultural infrastructure, including feedlots and manure management acres
  - (2) The developer or property owner shall supply the following information:
    - (a) Certified acres
    - (b) Most recent Farm Service Agency air photos showing the tract number, wetlands, highly erodible areas, etc.
    - (c) Indicate the location of natural drainage ways, County and private ditches and tile drainage systems
    - (d) Forms 578 and 156EZ; or successor forms, which can be obtained from the Farm Service Agency
  - (3) Based on the natural features that are identified, conservation areas will be designated. Primary conservation areas include existing agricultural infrastructure, wetlands and floodplains, steep slopes, tillable farmland, land on the *County Biological Survey* and land on the *Areas of Biological Significance Map*. Secondary conservation areas include mature woodlands and pasture lands. The developer or property owner shall locate potential home sites to avoid the primary conservation areas, and to the extent

practicable, the secondary conservation areas. The home sites shall be located so as to meet the goals contained in *Section 7.4.9 A of this Ordinance*.

- (4) After the home sites are designated, the developer or property owner shall show the street locations and layout.
  - (5) Based upon the home site and street locations, the lot lines may be drawn.
- C. In the event a developer proposes noncontiguous tracts, a concept plan shall be approved by the Planning Commission prior to submittal of the preliminary plat. In reviewing the concept plan, the Planning Commission will consider but not be limited to the extent to which the siting standards of Section 7.4.9A of this Ordinance are met.

#### **7.4.10 Sewage Treatment and Drinking Water Systems**

Community subsurface sewage treatment systems and/or community drinking water supply systems may be required where soil types and other environmental sensitivities, such as shallow bedrock formations and high susceptibility to nitrate nitrogen contamination, are such that additional measures may be necessary to protect the public health, safety and welfare.

- A. Community subsurface sewage treatment systems and community drinking water supply systems may be placed within the open space area.
- B. Subsurface sewage treatment systems may be placed within the open space area.
- C. A subordinate service district, a customer owned utility or other entity acceptable to the Board shall be responsible for the management of any community wastewater facilities and any community drinking water supply system.

#### **7.4.11 Cluster Development Review Standards**

The design of a plat using the cluster development option shall be subject to the approval of the Planning Commission, which may use, but is not limited to, the following criteria for their review:

- A. Compatibility with the Comprehensive Plan; and
- B. Compatibility with surrounding land uses; and
- C. The degree to which the proposal meets the intent of this Section; and
- D. The degree to which the proposal is able to provide contiguous, non-fragmented development. The Planning Commission has the authority to modify the lot lines and design of the proposed plat in order to achieve the goals of the Comprehensive Plan, the Subdivision Ordinance and this Ordinance; and
- E. Compatibility with the LESA system and the Resource Suitability Model.

## **7.5 Conservation Design Overlay, Agricultural**

### **7.5.1 Purpose**

The purpose of the Agricultural Conservation Design Overlay is to encourage residential development that conserves the agricultural and environmental resources of the County. This is achieved by designating areas with specific agricultural design themes or purposes, locating dwelling units on low value agricultural sites consistent with the goals of agricultural protection and preserving portions of the development site that have agricultural and conservation value. Conservation design enhances land development and resource conservation opportunities, meeting the following objectives and goals of the Stearns County Comprehensive Plan:

- A. Implementation Plan, Action Item #4, Conservation Design Options.** One of the common themes that emerged during the planning process was the desire of many township officials and landowners to have some additional flexibility in siting residential dwellings on land that is less suitable for farming. There was also a strong desire to limit the creation of twenty (20)- and forty (40)-acre single-family lots, which take excessive amounts of land out of agriculture, forestry or resource conservation. The concept of a conservation overlay option in the A-40 zoning district was developed to address these concerns.
- B. Land Use Plan, Development Suitability and Regulatory Flexibility, Policy #2.** In agriculturally designated areas where specific criteria are met, the County may allow reasonable increases in residential density that exceed the density range noted in the Comprehensive Plan agricultural land use category (one home per forty (40) acres or more). . . The overlay concept is intended for use only in areas where the County determines that the additional residential density will not adversely affect the viability of agricultural uses.
- C. Implementation Plan, Action Item #8. Consider Transitions from Large-Lot Zoning.** The conservation design options discussed in this section would allow similar or higher densities to those allowed by the R-20 and T-20 districts. The County will consider replacing these districts with a variety of conservation design options (i.e., the A-40 or Avon Hills options above) or with other zoning districts that will better protect agricultural and natural resources.

### **7.5.2 Applicability**

Conservation design is the preferred and permitted subdivision standard within agricultural conservation design overlay areas. Within conservation design overlay areas, conventional subdivisions require a conditional use permit.

- A. Agricultural Conservation Design.** Agricultural conservation design, as provided for in *Section 7.5 of this Ordinance*, shall be allowed in those areas of the A-40 Primary zoning district meeting the conditions of *Section 10.3 of this Ordinance*.

### 7.5.3 Agricultural Conservation Design Size, Density Standards

The following standards apply to subdivisions within the agricultural conservation design overlay.

- A. **Minimum Size.** The minimum conservation design development shall be two (2) Single-Family Residential Dwelling sites, exclusive of the density bonus, and eighty (80) acres or one half (1/2) section, whichever is smaller in size.
- B. **Density Transfer.** The number of eligible dwelling unit sites that can be transferred within a proposed conservation design subdivision shall be consistent with the residential density limitations of the A-40 primary zoning district, except as noted below.
- C. **Density Bonus.** As an incentive to encourage conservation design development, the number of residential divisions allowed may be increased as follows, provided the proposed development meets the standards contained in *Sections 7.5 and 7.33 of this Ordinance*.
  - (1) **Conservation Design Bonus.** In the A-40 primary zoning districts, the number of permitted residential dwelling sites may be increased by one hundred (100) percent. To achieve a one hundred (100) percent increase in residential density, multiply the eligible residential dwelling sites, as determined in each primary zoning district including the fraction, by two (2).
    - (a) Fractions of less than one-half (1/2) shall be reduced to the nearest whole number and fractions of one-half (1/2) or greater shall be increased to the nearest whole number.
    - (b) Bonus development rights shall be used within the conservation design overlay in which the bonus was granted and shall not be transferred to a parcel outside the overlay.
  - (2) **Participation in TDR.** Up to two (2) additional dwelling units per forty (40) acres may be transferred into a proposed subdivision site if the dwelling unit rights are acquired via the County Agricultural Transfer of Development Rights program and meet all the approvals and standards for such transfers as required in *Section 11 of this Ordinance*.
  - (3) **Site Conditions Limiting Density.** In no event shall the County allow density transfers into an agricultural conservation design subdivision that exceeds the approved yield plan for the subject subdivision as described in *Section 7.5.4 of this Ordinance*, that cannot meet the building siting requirements of the A-40 zoning district or *Section 7.33 of this Ordinance* or that otherwise conflicts with the goals of agricultural protection as stated in the Stearns County Comprehensive Plan.

### 7.5.4 Required Conservation Design Process

To meet conservation design goals, the following process shall be used to create an agricultural conservation design subdivision. The rezoning request for a conservation design overlay and the preliminary plat must be based upon

the following process, unless a conditional use permit authorizes a conventional subdivision. See *Appendix E of this Ordinance* for an illustration of this process.

- A. **First Step, Develop Yield Plan.** In order to determine the total potential density of the subdivision, a yield plan must be created and approved by the Board. The yield plan must be submitted as part of the application for rezoning under *Section 4.10.5 of this Ordinance* and shall be used to develop the preliminary plat as described in *Ordinance Number 230; or successor ordinance*. The yield plan shall also include all properties within one-half (½) mile of the subject property. The yield plan shall be developed in the following manner:
- (1) **Identify Conservation Goals, Areas.** The applicant must identify the specific agricultural conservation goals and provide a general description of conservation areas on the proposed site. Conservation goals will provide additional detail on the priority elements of the agricultural conservation resources being protected. Agricultural conservation goals can include, but are not limited to, the following: protection of tillable farmland, protection of pastureland, protection of buffers separating agriculture uses from natural resources or groundwater recharge areas and promotion of local food (small scale/direct-to-market agriculture).
  - (2) **Designate Conservation Areas.** Based on the conservation areas identified in the first step, the second step in creating a yield plan is to identify primary and secondary resources and designate conservation areas. Primary and secondary resources must be consistent with type of agricultural uses, and shall include the following:
    - (a) Primary conservation areas must include parcels with a LESA score greater than sixty-five (65), areas with prime farm soils, land on the *County Biological Survey*, land on the *Areas of Biological Significance Map*, existing feedlot buffers, other existing agricultural infrastructure including erosion control devices and shoreland buffers, wetlands, floodplains and shore and bluff impact zones.
    - (b) The applicant may designate other possible resources as primary or secondary conservation areas including tillable farmland, pasture lands, wind energy resource areas, steep slopes, natural resource areas, rural viewsheds or other resources consistent with the conservation goals.
    - (c) **Use of Conservation Area Designation.** All primary and secondary resources do not have to be included within the protected conservation area, but shall be a limitation on the density approved in the yield plan and on home and building envelope placement as described in *Section 7.33 of this Ordinance*.
  - (3) **Develop Yield Plan.** The yield plan shall identify:
    - (a) The total number of housing units sought by the applicant, not to exceed a gross density of four (4) units per forty (40) acres,
    - (b) a listing of the primary and secondary resources for conservation,



- (c) a map showing all areas within the proposed development that lie outside the conservation areas and are at least one (1) acre in size.
  - (4) **Submit Yield Plan.** The Applicant shall submit the yield plan to the Planning Commission as part of the application for rezoning, to be considered as described in *Section 4.10.5 and 10.3 of this Ordinance*. An approved rezoning shall constitute approval of the yield plan.
- B. **Second Step, Map Conservation Resources and Areas.** Upon approval of the application for rezoning the applicant shall compile necessary information for completing the conservation design process and filing of the preliminary plat, as described in *Ordinance Number 230; or successor ordinance*. As part of the preliminary plat application, the applicant shall map all primary and secondary conservation areas.
  - (1) The Department shall supply maps showing the following resources:
    - (a) Parcels with a LESA score greater than sixty-five (65)
    - (b) Soil types, including prime and tillable farmland
    - (c) Adjacent agricultural infrastructure, including feedlots and manure management acres
    - (d) Significant natural areas as shown on the *County Biological Survey*
    - (e) Woodlands
    - (f) Wetlands and floodplain
    - (g) Historic, archaeological and cultural features
    - (h) Steep slopes
    - (i) Shore and bluff impact zones
  - (2) **Additional Information.** The developer or property owner shall supply the following information:
    - (a) Certified acres
    - (b) Most recent Farm Service Agency air photos showing the tract number, wetlands, highly erodible areas, etc.
    - (c) Indicate the location of natural drainage ways, County and private ditches and tile drainage systems
    - (d) Forms 578 and 156EZ; or successor forms, which can be obtained from the Farm Service Agency
    - (e) Other information necessary to ensure compliance the County Comprehensive Plan or the conservation goals identified in *Section 7.5.4 (A) of this Ordinance*.
- C. **Third Step, Identify Building Locations.** The third step requires locating potential home sites that avoid the designated conservation areas and, to the extent practicable, the secondary conservation areas. All buildings and building envelopes shall be located so as to meet the goals contained in *Section 7.33 of this Ordinance*.
- D. **Fourth Step, Identify Street, Infrastructure Locations.** After the home sites are designated, the developer or property owner shall identify the location of streets, trails, stormwater facilities, wastewater facilities and other infrastructure associated with the development. The street and infrastructure locations shall protect priority resources consistent with the agricultural conservation design goals.

- E. **Fifth Step, Draw Lot Lines.** Based upon the home site and street locations, the lot lines may be drawn. Lots shall meet standards for the base zoning district and overlay districts.

#### **7.5.5 Conventional Subdivision Review.**

Conventional subdivisions including standard plats or administrative subdivisions are conditional uses within Agricultural Conservation Design Overlay areas. A conditional use permit shall not be required for non-building subdivisions. The Planning Commission shall include the following criteria in their review of conventional subdivision applications:

- A. The degree to which the conventional subdivision meets the agricultural conservation standards of this Ordinance.
- B. The degree to which the conventional subdivision supports the goals and policies of the Stearns County Comprehensive Plan.
- C. The degree to which the conventional subdivision maintains the rural character of the area as compared to a conservation design subdivision.
- D. The degree to which the conventional subdivision, under the strict application of building siting standards in *Section 7.33 of this Ordinance*, will still protect agricultural resources and practices and use the land as efficiently as a conservation design development.
- E. No density bonus is allowed for a conventional subdivision

#### **7.5.6 Conservation Design Development Consideration Process**

- A. A conservation design development shall be considered in the same manner as a subdivision plat.
- B. A preliminary subdivision plat shall be filed and processed in accordance with the procedures for processing a subdivision plat established in *Stearns County Subdivision Ordinance Number 230; or successor ordinance*.
- C. The approved preliminary plat shall be the site plan for the conservation design development whenever there is modification or variation from the standards of the primary zoning district or any applicable overlay district.
- D. Any request for a change to a site plan for a conservation design development shall be administered in the same manner as to that required for a new conservation design development.
- E. Modifications to a conservation design development shall be considered in the same manner as for approval pursuant to *Section 7.5.6 A of this Ordinance*.

#### **7.5.7 Required Conservation Areas**

A minimum of eighty (80) percent of the total acreage included in the subdivision application shall be designated protected conservation areas and shall meet the following standards:

- A. **Protection must be Permanent.** Protections on designated conservation areas must be permanent. Permanent conservation easements held by a government agency or qualified non-profit under Section 501(c)(3) of the Internal Revenue Code are considered to be permanent protection. Deed restrictions or covenants are not considered to be permanent protection.

- (1) **Protection terms.** The protection mechanism shall restrict future development and use of the conservation area to those consistent with agricultural protection, open space purposes and the conservation development goals identified in the preliminary plat.
- (2) **Allowed Uses on Protected Land.** The conservation easement(s) must allow land uses that are consistent with the goals of agricultural conservation and prohibit commercial, residential, industrial or institutional uses that would conflict with agricultural conservation design goals.
- (3) **Authorized Conservation Easement holders.** A conservation easement must be held and enforced by a qualified third party, a government agency or qualified non-profit organization under Section 501(c)(3) of the Internal Revenue Code, who is not the owner of the parcel. The conservation easement shall be held by an entity authorized to hold conservation easements under *Minnesota Statutes, chapter 84C; or successor statute*, which includes federally-recognized non-profit conservation organizations and units of government. The authorized entity may be Stearns County.
- (4) **Board Approval.** The Board shall approve:
  - (a) The granting of any easement to a qualified third party.
  - (b) All actions taken by a homeowners' association regarding the conservation area not authorized in the covenant or management plan.
- (5) The conservation easement shall contain appropriate provisions for the proper assignment of the conservation easement in the event that the conservation organization becomes unwilling or unable to continue to monitor the property and enforce the terms of the easement.

#### 7.5.8 Ownership of Conservation Areas

Conservation areas within agricultural or natural resource conservation design developments shall be owned, administered and maintained by any of the following methods, either individually or in combination, subject to approval by the Board:

- A. **Homeowner's Association.** The protected conservation areas and any associated facilities may be held in common ownership by a homeowner's association. The homeowner's association shall be formed and operated under the following provisions:
  - (1) The developer shall create a homeowner's association, including its bylaws and methods for maintaining the conservation area, before final plat approval.
  - (2) Membership in the homeowner's association shall be mandatory for all purchasers of lots within the development and all successors or assigns. The conditions and timing of transferring control of the homeowner's association from developer to lot owners shall be identified.
  - (3) The homeowner's association shall be responsible for maintenance of insurance and taxes on the conservation area.

- (4) The members of the homeowner's association shall share equitably in the cost of maintaining the conservation area. Shares shall be defined by the homeowner's association bylaws.
- (5) Notification to the easement holder shall be required upon any transfer of title.

- B. **Third Party Ownership.** The developer or homeowner's association may transfer title for any protected conservation area subject to the following:
- (1) Notification to the easement holder of any shall be required upon transfer of title.
  - (2) The transfer of any title shall be to an entity that can use the conservation area land consistent with the agricultural and conservation design goals and provisions of the permanent restrictions.
  - (3) The transferor (developer, homeowner's association, landowner) demonstrates to the satisfaction of the Board that the third party entity has resources to maintain the land in a manner consistent with the agricultural and conservation design goals and the provisions of the conservation easement. Transfers to a third party for the express purpose of agricultural use is consistent with the County's agricultural protection goals.

#### 7.5.9 Maintenance of Conservation Areas

The conservation design subdivision process shall include creation of a plan for maintenance of the protected conservation areas. The maintenance plan shall meet the following standards:

- A. **Board Approval.** The maintenance agreement shall be acceptable to the Board.
- B. **Describe Conservation Areas.** All lands included as protected conservation areas and all improvements thereto shall be described and identified as to location, size, use, maintenance and control on the preliminary plat.
- C. **Subdivision Agreement.** The subdivision agreement shall identify the method and extent of protection and all provisions of the conservation easement. The agreement shall also identify all assessments or financial securities for ensuring ongoing maintenance and control of the conservation areas.
- D. **Maintaining Conservation Areas.** The fee-title owner shall be responsible for the maintenance and control of conservation areas, except as directly stipulated and provided for in a conservation easement held by a qualified third party.
- E. **Compliance.** Failure to comply with the subdivision agreement shall constitute a violation of this Ordinance.

#### 7.5.10 Performance Standards for Conservation Design Developments.

Conservation design development shall meet the following standards.

- A. **General Standards**

- (1) Individual lots, buildings and streets shall be designed and located to minimize impact on agricultural resources and practices and to maximize opportunities for agricultural protection.
- (2) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
- (3) The subdivision design shall protect floodplains (as described in *Section 10.1 of this Ordinance*), wetlands, steep slopes and shore and bluff impact zones (as defined in *Section 10.2 of this Ordinance*) from clearing, grading, filling and construction impacts.
- (4) The design shall be consistent with the County's agricultural protection goals and the conservation goals as submitted with the preliminary plat. Agricultural conservation subdivisions shall ensure a sufficient buffer to minimize conflicts between residential and agricultural uses.
- (5) If development is to be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings shall be sited on the least agriculturally important land as determined through use of the Land Evaluation Site Assessment System (LESA) or in locations at the far edge of a field.
- (6) The design should maintain or create an upland buffer of natural native species of at least one hundred (100) feet in depth adjacent to lakes, wetlands, rivers and streams.
- (7) The design shall avoid siting new construction on prominent hilltops or ridges.
- (8) The design shall protect, to the maximum extent possible, rural roadside character through retaining existing trees or native vegetation between housing and roads or designating new landscaping as a buffer. In locating buildings, roadside character shall be a secondary goal to protecting agricultural practices.

**B. Residential Lot Standards**

- (1) The area, configuration and location of protected conservation areas shall, to the greatest extent possible, be designed as a single block with logical and straightforward boundaries. Long, thin strips and small blocks of open space shall be avoided.
- (2) Yards abutting the boundaries of the entire conservation design development site shall meet the minimum setback requirements for the primary zoning district or any applicable overlay zoning district.
- (3) The setback requirements for all property lines except for road right-of-way that are not abutting the boundaries of the entire conservation design development may be reduced by fifty (50) percent. Encroachments are not allowed within the setback area.

**C. Protected Conservation Area Standards**

- (1) The minimum size of the protected conservation area shall be eighty (80) percent of the total lot area of the conservation design development, except where the township conservation design standards require a larger conservation area.
- (2) The conservation area land shall be surveyed.

- (3) Protected conservation areas shall, to the maximum extent possible, connect to, and be contiguous with, protected conservation areas on adjacent sites and buffer residential uses from adjacent agricultural practices. If practicable, the conservation area shall also connect to areas on adjacent sites with LESA scores over sixty-five (65).
  - (4) The required protected conservation area shall be undivided and permanently restricted from further development by means of a permanent conservation easement. Infrastructure that is consistent with specific conservation goals, such as agricultural facilities other than feedlots, may be allowed.
  - (5) Road rights of way and land under the ordinary high water level may not be counted towards the required minimum protected conservation area.
  - (6) No more than fifty (50) percent of the protected conservation area may consist of wetlands or slopes greater than twenty-five (25) percent.
  - (7) The conservation easement shall be recorded in the Office of the County Recorder.
- D. **Street Standards.** The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage, trails walkways, utilities and snow storage.
- E. **Subsurface Sewage Treatment and Drinking Water Systems.** Community subsurface sewage treatment systems and/or community drinking water systems may be required where soil types and other environmental sensitivities, such as shallow bedrock formations and susceptibility to nitrate nitrogen contamination, are such that additional measures may be necessary to protect the public health, safety and welfare.
- (1) In agricultural conservation design developments, individual or community subsurface sewage treatment systems shall not be placed within the protected conservation area, unless the systems are located in buffer areas, pastures or other areas consistent with the agricultural goals of the conservation design development.
  - (2) A subordinate service district, a customer owned utility or other entity acceptable to the Board shall be responsible for the management of any community wastewater systems and any community drinking water supply system.

## 7.6 Conservation Design Overlay, Natural Resources

### 7.6.1 Purpose

The purpose of the Natural Resources Conservation Design Overlay is to encourage residential development that conserves the environmental resources of Stearns County. Townships identify overlay areas with specific natural resource value, within which development is allowed only by locating dwelling units on non-standard lots and preserving portions of the development site that have conservation value. Conservation design enhances land development and resource conservation opportunities, meeting the following objectives and goals of the Stearns County Comprehensive Plan:

**Implementation Plan, Action Item #4, Conservation Design Options.**

One of the common themes that emerged during the planning process was the desire of many township officials and landowners to have some additional flexibility in siting residential dwellings on land that is less suitable for farming. There was also a strong desire to limit the creation of twenty (20)- and forty (40)-acre single-family lots, which take excessive amounts of land out of agriculture, forestry or resource conservation. The concept of a conservation overlay option in the A-40 zoning district was developed to address these concerns.

**Implementation Plan Action Item #5, Conservation Design in the Avon Hills Land Use District.**

Conservation design has already been identified as a preferred strategy for the Avon Hills area, however, the distinctive topography, forest cover and concentration of natural resources in this area suggests a somewhat different approach; one that considers natural resources first in any planning process.

**Avon Hills Natural Resource Area Policy Area Policy 1:**

Encourage open space protection through techniques such as conservation easements, parkland acquisition and limited residential development emphasizing conservation design.

**Avon Hills Natural Resource Area Policy Area Policy 3:**

Continue to work with area residents and townships, including those townships adjacent to the policy area, to develop appropriate strategies for resource protection in each township.

**Implementation Plan, Action Item #8. Consider Transitions from Large-Lot Zoning.**

The conservation design options discussed in this section would allow similar or higher densities to those allowed by the R-20 and T-20 districts. The County will consider replacing these districts with a variety of conservation design options (i.e., the A-40 or Avon Hills options above) or with other zoning districts that will better protect agricultural and natural resources.

**7.6.2 Applicability**

Conservation design is the preferred and permitted subdivision standard within natural resource conservation design overlay areas, and is a preferred standard in residential districts outside overlay areas. Within conservation design overlay areas, conventional subdivisions require a conditional use permit.

- A. **Design.** Natural resources conservation design shall be allowed in all zoning districts eligible for the Natural Resource Conservation Design Overlay, as described in *Section 10.3 of this Ordinance*.

**7.6.3 Density Standards**

The following standards apply to subdivisions within a designated natural resource conservation design overlay.

- A. **Minimum Size.** The minimum natural resource conservation design development shall be sixty (60) acres in non-residential zoning districts and

in residential zoning districts shall be two (2) single family residential dwelling sites, exclusive of density bonuses or transfers.

- B. **Density Transfer.** The number of residential dwelling unit sites that can be transferred within a proposed subdivision site in order to develop a conservation design development shall be consistent with the residential density limitations of the underlying primary zoning district, except as allowed in *Section 7.6.3C of this Ordinance*.
- C. **Density Bonus.** As an incentive to encourage conservation design development, the number of residential divisions allowed may be increased as follows, provided the proposed development meets the standards contained in *Sections 7.6 and 7.33 of this Ordinance*.
- (1) **Conservation Design Bonus.** In all the Agricultural 40 zoning district where the Natural Resource Conservation Design Overlay is applied, a one hundred (100) percent increase in residential density is allowed by multiplying the eligible residential dwelling sites, as determined by *Section 9 of this Ordinance* including the fraction, by two (2). In the Transitional 20 and Residential zoning districts, where allowed density is already equal to or greater than a gross density of two (2) units per quarter-quarter section, no additional density may be awarded, except through participation in the County's Transfer of Development Rights program, as provided for in this Section.
- (a) Fractions of less than one half ( $\frac{1}{2}$ ) shall be reduced to the nearest whole number and fractions of one half ( $\frac{1}{2}$ ) or greater shall be increased to the nearest whole number.
- (b) Bonus development rights shall be used within the conservation design overlay in which the bonus was granted and shall not be transferred to a parcel outside the overlay.
- (2) **Participation in TDR.** In agricultural and transitional zoning districts, up to two (2) additional dwelling units per forty (40) acres may be transferred into a proposed subdivision site, if the dwelling unit rights are acquired via the Natural Resource Transfer of Development Rights program and meet all the approvals and standards for such transfers as required in *Section 11 of this Ordinance*. In residential zoning districts, the gross site density can be increased up to fifty (50) percent greater than the maximum base district density through transfers acquired in the Natural Resource Transfer of Development Rights program.
- D. **Density limited by site conditions.** In no event shall the County allow bonus dwelling units or density transfers into a natural resource conservation design subdivision if the transferred eligible dwelling units:
- (1) Cannot be sited consistent with the building siting requirements or minimum lot size of the underlying primary zoning district or *Section 7.33 of this Ordinance*; or
- (2) Undermine the township's natural resource overlay plan, as described in *Section 10.3 of this Ordinance*; or
- (3) Undermine the natural resource protection goals of the Stearns County Comprehensive Plan; or



- (4) Result in the subdivision exceeding the approved yield plan for the subject subdivision as described in *Section 7.6.4 of this Ordinance*.

#### **7.6.4 Required Conservation Design Process**

To meet conservation design goals, the following process shall be used to create a conservation design subdivision. The preliminary plat must be based upon the following process, unless a conditional use permit authorizes a conventional subdivision. See *Appendix E of this Ordinance* for an illustration of this process.

- A. **First Step, Develop Yield Plan.** In order to determine the total potential density of the subdivision, a yield plan must be created and approved by the Board. The yield plan must be consistent with the Township's conservation overlay plan and shall be used to develop the preliminary plat, as described in *Ordinance Number 230, or successor ordinance*. The yield plan shall be developed in the following manner:
  - (1) **Identify Natural Resource Conservation Design Goals.** The applicant must identify specific natural resource conservation goals for the subdivision and provide a general description of conservation areas on the proposed site. Conservation areas must include land on the *County Biological Survey* or the *Areas of Biological Significance Map*, shore and bluff impact zones, wetlands, floodplains, all characteristics required by the Township's conservation overlay plan and must, to the greatest extent possible, be contiguous with protected resources adjacent to the site. Other goals can include, but are not limited to, protection of woodlands, specific plant or animal habitat or communities, shoreland areas, wetland buffers, steep slopes and high quality viewsheds.
  - (2) **Designate Conservation Areas.** Based on the conservation areas identified in the first step, the second step in developing a yield plan is to identify primary and secondary resources and designate protected conservation areas. The primary and secondary resources and conservation areas must be consistent with the County's and the Township's natural resource protection goals, including the following:
    - (a) Primary conservation areas must include land on the *County Biological Survey* or the *Areas of Biological Significance Map*, wetlands, floodplains, shore and bluff impact zones and all priority natural resources identified in the Township's natural resource overlay plan
    - (b) Primary conservation areas must include connections to open space located on adjacent sites.
    - (c) The applicant may designate other possible resources as primary or secondary conservation areas including mature woodlands, restoration areas, plant or animal communities or habitat and greenway corridors. Agricultural resources may be designated for protection, including tillable farmland, pasture lands, wind energy resource areas and rural viewsheds.

- (d) **Use of Conservation Area Designation.** All primary and secondary resources do not have to be included within the protected conservation area, but shall be a limitation on the density approved in the yield plan and on home and building envelope placement as described in *Section 7.33 of this Ordinance*.
- (3) **Yield Plan Components.** The yield plan shall identify:
  - (a) The total number of housing units sought by the applicant, not to exceed a gross density of four units per forty acres. The applicant must separately identify the number of units being transferred via the Transfer of Development Rights program and whether development rights have been contractually secured or are being sought;
  - (b) A listing of the primary and secondary resources for conservation;
  - (c) A map showing all areas within the proposed development that lie outside the conservation areas and are at least one (1) acre in size.
- B. **Second Step, Map Conservation Areas.** After creating the yield plan, the applicant shall map all primary and secondary conservation areas for the property in question and properties within one-half (1/2) mile.
  - (1) In order to facilitate mapping of conservation areas, the Department shall supply maps showing the following resources:
    - (a) Soil types, including tillable farmland and areas with a LESA score greater than sixty-five (65)
    - (b) Significant natural areas as shown on the *County Biological Survey*
    - (c) Woodlands
    - (d) Wetlands and floodplain
    - (e) Historic, archaeological and cultural features
    - (f) Steep slopes
    - (g) Shore and bluff impact zones
    - (h) Protected natural areas on sites adjacent to the proposed development site.
    - (i) Greenways or natural resource corridors designated by the County or the Department of Natural Resources.
  - (2) **Additional Information.** The developer or property owner shall supply the following information:
    - (a) Certified acres
    - (b) Most recent Farm Service Agency air photos showing the tract number, wetlands, highly erodible areas, etc.
    - (c) Indicate the location of natural drainage ways, County and private ditches and tile drainage systems
    - (d) Forms 578 and 156EZ; or successor forms, which can be obtained from the Farm Service Agency
    - (e) Other information necessary to ensure compliance with the township Natural Resource Overlay Plan, the County Comprehensive Plan or the conservation goals identified in *Section 7.6.10 (A) of this Ordinance*.

- C. **Third Step, Identify Building Locations.** The third step requires locating potential home sites that avoid the designated primary conservation areas and, to the extent practicable, the secondary conservation areas. All buildings and building envelopes shall be located so as to meet the goals contained in *Section 7.33 of this Ordinance*.
- D. **Fourth Step, Identify Street, Infrastructure Locations.** After the home sites are designated, the developer or property owner shall identify the location of streets, trails, stormwater facilities, wastewater treatment and other infrastructure associated with the development. The street and infrastructure locations shall protect priority natural resources consistent with the township's and subdivision's conservation goals.
- E. **Fifth Step, Draw Lot Lines.** Based upon the home site and street locations, the lot lines may be drawn. Lots shall meet standards for the base zoning district and overlay districts. Flexibility on base zoning district lot size can be granted for the purpose of meeting natural resource conservation goals, provided that setback and septic standards can still be met.
- F. **Submit with Preliminary Plat.** The Applicant shall submit the yield plan, map of primary and secondary conservation areas, locations of buildings and building envelopes and the protected conservation area to the Planning Commission as part of the preliminary plat, to be considered as described in *Section 10.3 of this Ordinance and Ordinance 230; or successor ordinance*.

#### 7.6.5 Conventional Subdivision Review

Conventional subdivision, including a standard plat or administrative subdivision, is a conditional use within Conservation Design Overlay areas. A conditional use permit shall not be required for non-building subdivisions, attachments, boundary line corrections, or septic system subdivisions as defined in *Stearns County Subdivision Ordinance 230; or successor ordinance*. The Planning Commission shall include the following criteria in their review of conventional subdivision applications:

- A. The degree to which the conventional subdivision meets the natural resource conservation standards of this Ordinance and the township natural resource overlay plan.
- B. The degree to which the conventional subdivision supports the goals and policies of the Stearns County Comprehensive Plan.
- C. The degree to which the conventional subdivision maintains the rural character of the area as compared to a conservation design subdivision.
- D. The degree to which the conventional subdivision, under the strict application of building siting standards in *Section 7.33 of this Ordinance*, will still protect the priority natural resource amenities and use the land as efficiently as a conservation design development. For instance, in a natural resource conservation design overlay, the applicant for conventional development must demonstrate that the conventional subdivision, which does not have a requirement for permanently protected natural resources, still results in an efficient use of land for natural resource conservation purposes, relative to what would occur under conservation design development in which a minimum of eighty (80) percent of the land will be permanently protected.

- E. No density bonus is allowed for a conventional subdivision.

#### **7.6.6 Conservation Design Development Consideration Process**

- A. The conventional subdivision shall meet the natural resource conservation standards of this Ordinance and the township natural resource overlay plan.
- B. A preliminary subdivision plat shall be filed and processed in accordance with the procedures for processing a subdivision plat established in *Stearns County Subdivision Ordinance Number 230; or successor ordinance*.
- C. The approved preliminary plat shall be the site plan for the conservation design development whenever there is modification or variation from the standards of the primary zoning district or any applicable overlay district.
- D. Any request for a change to a site plan for a conservation design development shall be administered in the same manner as to that required for a new conservation design development.
- E. Modifications to a conservation design development shall be considered in the same manner as for approval pursuant to *Section 7.6.7 A of this Ordinance*.

#### **7.6.7 Required Conservation Areas**

A minimum of eighty (80) percent of the total acreage included in the subdivision application must be designated protected conservation areas and must meet the following standards:

- A. **Protection must be Permanent.** Protections on designated conservation areas must be permanent. Conservation easements are considered to be permanent protection. Deed restrictions or covenants are not considered to be permanent protection.
  - (1) **Protection terms.** The protection mechanism shall restrict future development and use of the conservation area to those consistent with the open space uses and natural resource conservation development goals identified in the preliminary plat and the township natural resource overlay plan.
  - (2) **Allowed Uses on Protected Land.** The conservation easement(s) on protected conservation areas must allow land uses that are consistent with open space uses and natural resource conservation and must not allow uses that would conflict with the natural resource conservation design goals.
  - (3) **Authorized Conservation Easement holders.** A conservation easement must be held and enforced by a third party, a government agency or qualified non-profit organization under Section 501(c)(3) of the Internal Revenue Code, who is not the owner of the parcel. The conservation easement shall be held by an entity authorized to hold conservation easements under *Minnesota Statutes chapter 84C; or successor statute*, which includes federally-recognized non-profit conservation organizations and units of government. The authorized entity may be Stearns County.
  - (4) **Board Approval.** The Board shall approve:
    - (a) The granting of any easement to a qualified third party.

- (b) All actions taken by a homeowners' association regarding the conservation area not authorized in the covenant or management plan.
- (5) The conservation easement shall contain appropriate provisions for the proper assignment of the easement in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.

#### **7.6.8 Ownership of Conservation Areas**

Conservation areas within natural resource conservation design development shall be owned, administered and maintained by any of the following methods, either individually or in combination, subject to approval by the Board:

- A. **Homeowner's Association.** The protected conservation areas and any associated facilities may be held in common ownership by a homeowner's association. The homeowner's association shall be formed and operated under the following provisions:
  - (1) The developer shall create a homeowner's association, including its bylaws and methods for maintaining the conservation area before final plat approval.
  - (2) Membership in the homeowner's association shall be mandatory for all purchasers of lots within the development and all successors or assigns. The conditions and timing of transferring control of the homeowner's association from developer to lot owners shall be identified.
  - (3) The homeowner's association shall be responsible for maintenance of insurance and taxes on the conservation area.
  - (4) The members of the homeowner's association shall share equitably in the cost of maintaining the conservation area. Shares shall be defined by the homeowner's association bylaws.
  - (5) Notification to the easement holder shall be required upon any transfer of title.
- B. **Third Party Ownership.** The developer or homeowner's association may transfer title for any protected conservation area subject to the following:
  - (1) Notification to easement holder shall be required upon any transfer of title.
  - (2) The transfer of any title shall be to an entity that can use the conservation area land consistent with the natural resource conservation design goals and provisions of the permanent restrictions.
  - (3) The transferor (developer, homeowner's association, landowner) demonstrates to the satisfaction of the Board that the third party entity has resources to maintain the land in a manner consistent with the conservation design theme and the provisions of the conservation easement. Conservation subdivisions that have an agricultural conservation goal can be transferred to a third party for the express purpose of agricultural use.

**7.6.9 Maintenance of Conservation Areas**

The conservation design subdivision process shall include creation of a plan for maintenance of the protected conservation areas. The maintenance plan shall meet the following standards:

- A. **Board Approval.** The maintenance agreement shall be acceptable to the Board.
- B. **Describe Conservation Areas.** All lands included as protected conservation areas and all improvements thereto shall be described and identified as to location, size, use, maintenance and control on the preliminary plat.
- C. **Subdivision Agreement.** The developer shall enter into a subdivision agreement that identifies the method and extent of protection and all provisions of the easement, deed restriction, or other protection vehicle. The agreement shall also identify all assessments or financial securities for ensuring ongoing maintenance and control of the conservation areas.
- D. **Maintaining Conservation Areas.** The fee-title owner shall be responsible for the maintenance and control of conservation areas, except as directly stipulated and provided for in a conservation easement held by a qualified third party.
- E. **Compliance.** Failure to comply with the subdivision agreement easement shall constitute a violation of this Ordinance.

**7.6.10 Performance Standards for Natural Resource Conservation Design Developments**

Natural resource conservation design development shall meet the following standards.

- A. **General Standards**
  - (1) Individual lots, buildings and streets shall be designed and located to minimize impact on the protected natural resources or systems and to maximize opportunities for uses consistent with the natural resource priorities of the township's overlay plan.
  - (2) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
  - (3) The subdivision design shall protect floodplains, wetlands, steep slopes and shore and bluff impact zones from clearing, grading, filling and construction impacts.
  - (4) The design shall be consistent with the designated conservation goals as submitted with the preliminary plat.
  - (5) The design should maintain or create an upland buffer of natural native species of at least one hundred (100) feet in depth adjacent to lakes, wetlands, rivers and streams.
  - (6) The design shall avoid siting new construction on prominent hilltops or ridges.
  - (7) The design shall protect, to the maximum extent possible, rural roadside character through retaining existing trees or native vegetation between housing and roads, setting back development from roads or designating new landscaping as a buffer.

**B. Residential Lot Standards**

- (1) The area, configuration and location of protected conservation areas shall, to the greatest extent possible, be designed as a single block with logical and straightforward boundaries. Long, thin strips and small blocks of open space shall be avoided.
- (2) Yards abutting the boundaries of the entire conservation design development site shall meet the minimum setback requirements for the primary zoning district or any applicable overlay zoning district. Protected conservation areas shall, to the maximum extent possible, connect to, and be contiguous with, conservation areas on adjacent sites. The conservation area shall connect to high priority natural resource sites on adjacent sites, as defined by the township's natural resource conservation plan.
- (3) The setback requirements for all property lines, except for road rights-of-way that are not abutting the boundaries of the entire conservation design development, may be reduced by fifty (50) percent. Encroachments are not allowed within the setback area.

**C. Protected Conservation Area Standards**

- (1) The minimum size of the protected conservation area shall be eighty (80) percent of the total lot area of the conservation design development, except where the township conservation design standards require a larger conservation area.
- (2) The conservation area land shall be surveyed.
- (3) The required protected conservation area shall be undivided and permanently restricted from further development by means of a permanent conservation easement. Infrastructure that is consistent with specific conservation goals, such as agricultural facilities other than feedlots, may be allowed.
- (4) Road rights of way and land under the ordinary high water level may not be counted towards the required minimum protected conservation area.
- (5) No more than fifty (50) percent of the protected conservation area may consist of wetlands or slopes greater than twenty-five (25) percent.
- (6) The conservation easement shall be recorded in the Office of the County Recorder.

**D. Street Standards.** The right of-way-width for each road shall be wide enough to provide for all public services, including roadway drainage, trails, walkways, utilities and snow storage.**E. Subsurface Sewage Treatment and Drinking Water Systems.**

Community subsurface sewage treatment systems and/or community drinking water systems may be required where soil types and other environmental sensitivities, such as shallow bedrock formations and susceptibility to nitrate nitrogen contamination, are such that additional measures may be necessary to protect the public health, safety and welfare.

- (1) Subsurface sewage treatment systems, either community or individual systems and community drinking water supply systems may be placed within the protected conservation area, provided that the systems can

be placed within conservation areas consistent with the natural resource goals of the conservation design development.

- (2) A subordinate service district, a customer owned utility or other entity acceptable to the Board shall be responsible for the management of any community wastewater systems and any community drinking water supply system.

## **7.7 County Biological Survey Native Plant Communities**

### **7.7.1 Purpose**

Native plant communities have been identified in Stearns County by the Minnesota Department of Natural Resources. These plant communities are important to biological diversity in Minnesota and should be protected when feasible.

### **7.7.2 Development Standards**

All parcels where a native plant community is identified in the Department of Natural Resources' map, published in 1999 and titled Native Plant Communities and Rare Species of Stearns County, Minnesota, which is attached to this Ordinance as Appendix C, shall be subject to the following development standards:

- A. All nonagricultural use of land and all placement of structures shall avoid encroaching upon or disturbing such native plant communities.
- B. The Minnesota Department of Natural Resources shall delineate the location of the native plant community prior to issuance of land use and building permits.
- C. All clearing of vegetation in the delineated area, except for safety purposes, farmland, driveways and mining, is prohibited. Clearing of vegetation for the purpose of enhancing or maintaining the biodiversity of the area is permitted provided that a plan has been submitted to and approved by the Department.
- D. The removal of non-native invasive species such as European Buckthorn or Purple Loosestrife or noxious species such as Poison Ivy or Prickly Ash is permitted.
- E. The presence of and protection of native plant communities as required by this Section shall not result in the loss of any numerical building rights as determined by this Ordinance.
- F. Placement of buildings must follow the siting standards of *Section 7.33.2 of this Ordinance*.

## **7.8 Drinking Water Supply Management Areas**

### **7.8.1 Purpose**

Drinking Water Supply Management Areas (DWSMAs) are as defined by the Minnesota Department of Health as are areas that should be managed for the protection of public drinking water supplies. These standards limit or control land uses within DWSMAs for the protection of public drinking water supplies.

### **7.8.2 Development Standards**

Any proposed use or structure within a DWSMA, as designated on the Stearns County Drinking Water Supply Management Areas map, shall comply with



the DWSMA Plan adopted by the relevant public water supplier and shall comply with the following standards. For the St. Cloud DWSMA, only priority area A is subject to these standards:

- A. The Department shall review all land use permit and subdivision applications within DWSMAs for potential impact on drinking water supplies.
- B. The Department shall review the DWSMA Plan for the relevant public water supplier and upon review may impose conditions on any land use permit or subdivision within a DWSMA to prevent negative impacts on drinking water supplies. Conditions may include, but are not limited to:
  - (1) Prohibiting or limiting allowed uses
  - (2) Limiting location or technology of subsurface sewage treatment systems
  - (3) Limiting the land application or storage of manure
  - (4) Limiting the storage or use of chemicals and other materials
  - (5) Requiring specific stormwater management practices to prevent drinking water contamination
  - (6) Limiting location or technology of individual drinking water wells
  - (7) Limiting the movement, excavation and removal of soil and underground materials
  - (8) Limiting excavation
- C. Within seven (7) days of receipt of a completed land use application for all uses except for single family residential dwelling units, residential accessory structures and agricultural accessory structures, the County shall forward a copy of the application to the drinking water supplier in whose DWSMA the applicant parcel lies and a copy to the Stearns County Soil and Water Conservation District (SWCD). The supplier and SWCD shall review the application for compliance with DWSMA protection policies and provide comments to the County within fourteen (14) days of receipt of the copy from the County. If no comments are received within the timeframe described above, the County shall assume the supplier or SWCD has no objections to the application based on DWSMA protection.

## **7.9 Encroachments**

The following shall be permitted encroachments into setback requirements:

- 7.9.1** Flues, roof overhangs, awnings, bay windows and chimneys up to two (2) feet in width;
- 7.9.2** Steps, sidewalks, stoops and exposed wheelchair ramps up to four (4) feet in width; and
- 7.9.3** Recreational playground equipment for private use.

## **7.10 Erosion and Sediment Control Standards**

The purpose of this Section is to prevent or reduce, to the most practicable extent, erosion and sedimentation and their associated effects and to provide for the protection of public waters as well as natural and artificial water storage and retention areas within the County. An erosion and sediment control plan shall be submitted to and approved by the Department prior to construction of a new plat or a commercial or industrial facility, or when the Department determines an erosion and sediment

control plan is necessary due to potential impacts of construction on the property or surrounding properties.

#### **7.10.1 General Standards**

Proper erosion and sediment control practices shall be followed within the County as described in this Section. All land disturbing activities, whether or not a permit is required, shall be subject to the following performance standards:

- A. No land owner, operator, contractor or applicant shall cause or conduct any land disturbing activity which causes erosion or sedimentation, damages water or soil resources or creates off-site impacts.
- B. All development shall conform to the natural limitations presented by the topography and soil types in order to minimize soil erosion and sedimentation.
- C. Land disturbing activities shall only occur in increments of workable size such that adequate erosion and sediment controls can be provided throughout all phases of a development. The smallest practical area of land shall be exposed or otherwise disturbed at any one period of time.
- D. Every applicant for a construction site permit, interim use permit, provisional use permit, alteration permit, conditional use permit or subdivision approval shall, at a minimum, adhere to erosion control measure standards and specifications contained in the MPCA publication "*Protecting Water Quality in Urban Areas*"; or successor publication.

#### **7.10.2 Specific Standards**

- A. No land disturbing activity shall result in active gully erosion or create negative off-site impacts.
- B. No land disturbing activity shall result in an increase in channel erosion in any watercourse, whether permanent or intermittent, at any time during or following development.
- C. No land disturbing activity shall result in the creation of unstable slopes which persist after the completion of the development.
- D. Permanent or temporary soil stabilization shall be applied to disturbed areas (areas where vegetation has been removed or where cuts have been made), as soon as possible, but not to exceed fourteen (14) days after a substantial portion of rough grading has been conducted unless an extension is granted by the Director. Soil stabilization measures shall be selected to be appropriate for the time of year, site conditions and estimated duration of use.
- E. An erosion and sediment control plan, when required by the Department shall include the following:
  - (1) Location map. An 11"x17" map locating the site in relation to the surrounding area.
  - (2) Indicate north. Show the direction of north in relation to the site.
  - (3) Scale. Indicate scale in relation to the actual size of the site, usually in feet per inch.

- (4) Benchmark. Show the established elevation affixed to a permanent object which can be used to check grade.
  - (5) Plan preparer. Indicate the name and phone number of the individual or agency responsible for preparation of the plan.
  - (6) Contact person. Give the name and phone number of the individual responsible for plan implementation.
  - (7) Existing contours. Show existing two (2) foot contours of the site extending at least two hundred (200) feet beyond the property boundaries.
  - (8) Final contours. Show all proposed changes to the existing contours due to land disturbance.
  - (9) Existing vegetation. Indicate existing woods, tree lines, cultivated areas, grass/hay fields, CRP, wetlands and other vegetative types.
  - (10) Utilities. Show the locations of storm sewer, sanitary sewer, water supply, electrical and other utilities in the area of the proposed development.
  - (11) Location of BMP. Indicate the location of erosion and sediment control best management practices proposed for the site.
  - (12) Implementation schedule. Outline the proposed order of land clearing, road installation and other aspects of construction.
  - (13) Critical erosion areas. Identify areas susceptible to erosion during and after construction. Critical erosion areas are areas which are prone to accelerated erosion, areas which have slopes of twelve (12) percent or greater, areas of long, continuous slopes or areas which contain erosive soils.
  - (14) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities.
  - (15) Sediment pond. Show the location of any temporary pond to be used to collect sediment during construction.
  - (16) Adjacent areas. Describe neighboring areas which could be affected by land disturbance.
  - (17) Temporary erosion control plan. Indicate how erosion on the site will be temporarily controlled until permanent erosion control can be implemented (seeding and mulching rates, sod installation, etc.)
- F. Soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent soil loss.
- G. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.
- H. Properties adjacent to the site of a land disturbance shall be protected from sediment deposition.
- I. Sediment basins and traps, perimeter dikes (for diversion), sediment barriers (silt fences) and other measures intended to trap sediment on-site shall be constructed prior to or concurrent with any grading and shall be functional before upslope land disturbance takes place. Earthen structures such as dams, dikes and diversions shall be seeded and mulched within fourteen (14) days of installation.

- J. Storm water runoff from drainage areas with more than ten (10) acres of disturbed area must pass through a temporary sediment trapping basin or other suitable sediment trapping facility.
- K. Cut and fill slopes shall be designed and constructed in a manner which will minimize erosion. Slopes which will not be vegetated within one (1) year of construction shall be provided with additional slope stabilizing measures until the problem is corrected. Slopes that are found to be eroding excessively shall immediately be provided with additional slope stabilizing measures until the problem is corrected.
- L. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity and peak flow rate of storm water runoff.
- M. All on-site storm water conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a ten (10) year frequency storm without eroding.
- N. Rip-rap shall be placed at culvert outfalls in accordance with applicable MnDOT standard specifications.
- O. All storm sewer inlets which are made operable during construction shall be protected so that sediment laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- P. Construction vehicles and other equipment shall be kept out of watercourses to the maximum extent possible.
- Q. Wherever construction vehicle access routes intersect paved public roads, provisions, such as rock construction entrances, shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surfaces.
- R. All temporary erosion and sediment control measures shall be properly disposed of within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the Department.
- S. All temporary and permanent erosion and sediment control practices shall be maintained and repaired as needed to assure continued performance of their intended functions.

## **7.11 Essential Services, Transmission Services and Utility Substations**

### **7.11.1 Provisions**

Essential services are permitted uses in all zoning districts subject to all State and Federal rules and regulations and may be installed subject to the following construction standards:

- A. When an underground essential service crosses a County road, the service shall be installed by boring horizontally unless the Stearns County Public Works Director approves an alternative procedure. Additionally, when an underground essential service crosses a Township road, the service shall be installed by boring horizontally unless the Township Board of Supervisors approves an alternative procedure.

- B. The owner shall file, with the Stearns County Public Works Director or the Township Board of Supervisors of any affected Township road, as built drawings of the essential service facility as it traverses any County or Township road.
- C. If an open ditch is traversed, the owner shall lay its essential service facility below the original bottom of the drainage ditch as designed, and the method of construction shall not impede the normal flow of water.
- D. All tile lines or other drainage systems which are cut or disturbed during construction of any essential service shall be restored and repaired to the previous and operable condition without cost to the landowner, Township or County.

#### **7.11.2 Maintenance**

Required maintenance of any essential service facility, when such maintenance does not substantially change the location of the existing facility, shall be exempt from the standards contained in *Section 7.11 of this Ordinance*.

#### **7.11.3 Extension of Services**

Ordinary service extension that provides service to only one parcel of land shall be exempt from the standards contained in *Section 7.11 of this Ordinance*.

#### **7.11.4 Substations**

Water and sewage pumps and lift stations shall be permitted in all zoning districts. Utility substations, including electric substations, telephone switching and relay facilities shall be permitted in all zoning districts, provided all setback requirements of the applicable zoning district are met.

#### **7.11.5 Substation Lot Area**

The lot area for utility substations can be acquired by lease provided, however, the lot shall be large enough so all structures or facilities comply with the setbacks for the applicable zoning district.

#### **7.11.6 Transmission Services**

The installation of new, realigned or extended transmission services and pipelines for services being transferred from station to station and not intended for enroute consumption may be allowed as a conditional use in all zoning districts, subject to the following:

- A. The proposed use shall be subject to the procedures set forth in *Section 4.8 of this Ordinance* and the performance standards contained in *Section 7.11 of this Ordinance*.
- B. The applicant for such conditional use permit shall file with the Department such maps and data necessary to indicate the proposed alignment with the conditions of easement, type of service proposed, depths and size of underground installation, pole heights, location and type. The Director may require the submittal of additional information deemed necessary to evaluate the proposed use.

### **7.12 Fences**

Fences may be installed and maintained in any yard along or adjacent to a property line, in accordance with the requirements contained in this section.

**7.12.1 Fence Construction**

- A. No fence shall be constructed in any public right-of-way. No fence in a residential district shall exceed six (6) feet in height. Fences within the required front yard shall not exceed four (4) feet in height.
- B. No fence shall impede the vision of the roadway from a driveway providing access to the road.
- C. Fences in the Shoreland Overlay District shall also comply with the requirements contained in *Section 10.2.11 D of this Ordinance*.

**7.12.2 Enclosure of Outdoor Storage Areas**

A fence used to enclose an outdoor storage area shall meet the setback requirements for the principal structure in the district in which it is located.

**7.13 Handicap Accessibility Code**

When applicable, structures and/or facilities shall meet the accessibility portion of the State Building Code, *Minnesota Rules, chapter 1341; or successor rules*.

**7.14 Height Regulations**

The following structures are exempt from the height provisions set forth in other sections of this Ordinance:

- A. Church spires, belfries or domes that do not contain usable space.
- B. Flag poles.
- C. Grain elevators.
- D. Water towers.
- E. Chimneys or smokestacks.
- F. Wind Energy Conversion Systems and Meteorological Towers
- G. Rooftop mechanical or electrical equipment provided such equipment does not occupy more than twenty-five (25) percent of the roof area.
- H. Monuments.
- I. Parapet walls extending no more than three (3) feet above the limiting height of the building.
- J. Towers, poles or other structures for essential services.
- K. Television antennas not exceeding twenty (20) feet in height, when placed on top of any principal structure.

**7.15 Lighting/Glare**

In all districts, any lighting used to illuminate an off-street parking area, sign or other structure shall be installed so as to deflect light away from any adjoining property or from public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed onto any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property or create a traffic hazard.

## **7.16 Lot Standards**

### **7.16.1 Permeable Surfaces**

The Department will give credit for up to 100% of the area covered by a permeable surfacing system as pervious surface if it is designed and inspected by a Minnesota-licensed professional engineer. The system must be certified annually to the Department that it is functioning as a pervious surface. Best management practices shall be followed in design, installation, and maintenance as found in the Minnesota Stormwater Manual and the Permeable Pavement Systems Department Policy, including the following:

- A. The base of the installed permeable pavement system must have a minimum of three feet separation from the seasonally saturated soils or from the bedrock; and
- B. The design of a permeable pavement system must allow the infiltration of one inch of stormwater on the pavement surface.

### **7.16.2 Lot Size Reduction**

No lot area shall be reduced such that the required setbacks shall be smaller than prescribed in this Ordinance, nor shall the area or width of any lot be reduced below the minimum requirement established in this Ordinance.

## **7.17 Mining**

### **7.17.1 Required Permits**

- A. When permitted as an interim use in any applicable zoning district, Mining Operations may be allowed as an interim use subject to the procedures set forth in *Section 4.18 of this Ordinance*, unless otherwise provided for in *Section 7.17.1 B and C of this Ordinance*.
- B. In lieu of an interim use permit, property owners outside of any shoreland or floodplain overlay district may secure an administrative mining permit from the Department, provided all the following conditions are met:
  - (1) A maximum of ten thousand (10,000) cubic yards of material shall be removed from the Mining Operation;
  - (2) The Mining Operation will be commenced, completed and rehabilitated within a twelve (12) month period;
  - (3) Only one (1) administrative mining permit may be issued in any quarter-quarter section of land;
  - (4) All other requirements of *Section 7.17 of this Ordinance* shall apply, unless otherwise determined by the Department.
- C. Existing, pre-ordinance Mining Operations.
  - (1) Existing, pre-ordinance Mining Operations are those Mining Operations that are currently being used or those that have records showing commercial use within the past five (5) years on a Lot of Record.
  - (2) Owners of existing pre-ordinance Mining Operations shall register with the Department by December 31, 2011 on forms provided by the Department. Operators of existing pre-ordinance Mining Operations may continue operation during the registration and

review process. The registration shall remain in effect and allow the operation to continue as long as the operation remains in compliance with the minimum standards of this Ordinance. Owners of existing pre-ordinance Mining Operations whose operations are not in compliance with *Section 7.17.1 C of this Ordinance* are not eligible for registration shall apply for an interim use permit.

- (3) The owner shall apply for an interim use permit and be subject to the provisions of *Section 4.18 of this Ordinance* if it is determined by the County Board that an existing, pre-ordinance Mining Operation poses a potential or real environmental hazard or otherwise has a potential or real negative impact on the health, safety or welfare of the residents of the County.

### **7.17.2 Operations Regulated**

Operations regulated by this Section shall be the mining of granite and the mining, crushing, washing, refining or processing of sand, gravel, rock, black dirt, peat, soil and other minerals, and the removal thereof from the site. Operations not regulated by this Section shall include the following:

- A. The removal of materials associated with the construction of a building or subsurface sewage treatment system permitted by the Department;
- B. The removal of materials in accordance with the development of approved plats, and the site preparation for utilities or highway construction;
- C. The construction, modification or expansion of Animal Feedlots and Manure Storage Areas, Structures or Facilities authorized by the Minnesota Pollution Control Agency or the Department;
- D. Sod harvesting or removal;
- E. Wildlife ponds constructed in accordance with *Minnesota Rules, chapter 8420; or successor rules.*

### **7.17.3 Application requirements**

The following information shall be provided by the person requesting an interim use permit for a Mining Operation:

#### Part One: General Information

- A. The name and address of the applicant.
- B. The name and address of the owner of the land.
- C. The address and legal description of the land involved in the application
- D. The total area, in acres, of the land to be affected by the project. Include areas for future expansions, stockpiling, processing, haul roads, settling basins, berms, topsoil storage areas and parking areas
- E. List other permits necessary for this project, indicate their status and provide a copy for the Department.

#### Part Two: Pre-mining Conditions

- A. Describe current land uses within one-half mile of the project area.
- B. Indicate if the project area is located within one thousand (1,000) feet of the shoreline of a lake or within three hundred (300) feet from the



bank of a watercourse or the landward extent of a floodplain designated by local ordinance.

- C. Indicate the observed or estimated groundwater elevation in the project area and reference that depth to a permanent benchmark. An elevation benchmark shall be established in an area not to be disturbed by the Mining Operation.
- D. The following maps of features within one hundred (100) feet of the site, drawn at a scale of one (1) inch to one hundred (100) feet and one reproducible 11"x17" copy, unless otherwise provided in this Section:

**Map A – Existing Conditions**

- (1) Contour map in two (2) foot intervals.
- (2) Existing vegetation.
- (3) Wetlands and existing surface water drainage patterns.
- (4) Existing structures.
- (5) Existing wells.

**Map B – Proposed Operation**

- (1) Future structures.
- (2) Location of sites to be mined, including depth of proposed excavation.
- (3) Location of machinery to be used in the Mining Operation.
- (4) Location of storage of mined materials, showing maximum height of storage deposits.
- (5) Location of vehicle parking, access roads and local routes to truck routes.
- (6) Location of storage areas for explosives.
- (7) Erosion and sediment control structures.
- (8) Cross-section sketch of the proposed Mining Operation.
- (9) Location of the leak containment structure(s) for servicing trucks and machines in the event of a petrochemical leak or spill.

**Map C – End Use Plan**

- (1) Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
- (2) Location and species of vegetation to be replanted.
- (3) Reclamation staging plan.
- E. A soil erosion and sediment control plan.
- F. A plan for dust and noise control.
- G. A complete description of all phases of the proposed operation to include an estimate of duration of the Mining Operation, location and approximate acreage of each stage and time schedule for reclamation.
- H. The highway, street or streets or other public ways in the County upon, and along which, any material is to be hauled or carried.
- I. A security statement by the applicant demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
- J. A statement by the applicant for compliance with all conditions of the interim use permit.

- K. A written right-of-entry given to the Department to enter the land for the purpose of determining compliance, at any time, with all applicable conditions imposed on the operation.

Part Three: Mitigating Impacts

- A. List the air, land and water resources that may be impacted by this project, identify impacts and describe measures that will be taken to mitigate those impacts, including, but not limited to noise, volatile organic compounds (VOC), dust and particulate matter.
- B. Describe measures that will be taken to screen the operation from view of surrounding land uses or an explanation of why such measures are not needed.
- C. Describe erosion control practices that will be used during mining. If no measures will be used, explain why none are needed.
- D. If required by the Department, provide copies of any air, water or soil monitoring conducted for any other local, state or federal agency.

Part Four: Description of Mining Activities

Proposed Mining Methods

- A. Describe the sand and gravel products that will be mined from the project area.
- B. Describe how the sand and gravel will be mined and what equipment will be used.
- C. Describe how the material will be transported from the site, the proposed route of transport and the ultimate destination.
- D. Describe the methods that will be used to retain topsoil.
- E. Estimate the volume of material in cubic yards to be mined in the period covered by this permit.
- F. List the months, days and hours in which mining activities are expected to occur.
- G. Describe the methods used to control dust on haul roads.
- H. Identify the number of employees expected to work at the site and the facilities that will be provided.
- I. Describe dewatering activities and estimate the volume of water to be discharged from the site.

Proposed Processing Methods

- A. Describe the processing methods that will be used at the site.
- B. List the proposed hours of operation for the processing facilities.
- C. Describe the volume of water needed for gravel washing activities and the source of the water.
- D. Describe how chemical substances will be stored on the site.

Part Five: Staging of Operations

- A. Describe the projected life of the operation, including beginning and ending of operations and any phases or stages.
- B. Describe the progressive reclamation activities that will occur over the life of the operation.
- C. Describe the methods that will be used at the cessation of seasonal operations to stabilize slopes from erosion.

- D. Describe the interim reclamation methods that will be used if the site will become inactive at the close of current operations for unspecified periods of time.

**Part Six: Proposed Reclamation**

- A. Describe the proposed reclamation, including final slopes, high wall reduction, benching, terracing and other structural slope stabilization measures.
- B. Describe anticipated topography, water impoundments, artificial lakes and future land use of the site.
- C. Describe plans for the disposal of surface structures, roads and related facilities after completion of mining.
- D. Describe the methods proposed for the disposal or reclamation of oversize and undersize materials.
- E. Describe or attach a copy of a seeding plan that includes methods of seedbed preparation, seed mixtures, seeding rates, mulching and other techniques needed to accomplish site stabilization.
- F. Describe long-term maintenance needed to support reclamation.
- G. Provide an estimate of the reclamation cost of each phase of the project or the entire site if phasing is not planned.

**7.17.4 Performance Standards**

The following performance standards shall apply to all Mining Operations approved after the effective date of this Ordinance:

- A. General Provisions. All equipment used for Mining Operations shall be constructed, maintained and operated in a manner as to minimize, as far as practical, noise, dust and vibrations adversely affecting the surrounding property. Additionally, the excavation shall be properly gated and fenced.
- B. Water Resources. The Mining Operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside the boundaries of the Mining Operation.
- C. Safety Fencing. Safety fencing may be required around all or portions of the Mining Operation at the discretion of the Planning Commission. Any Mining Operation(s) adjacent to a residential zone, or within three hundred (300) feet of four (4) or more residential structures, shall adhere to the following standards:
  - (1) Where collections of water occur that are one and one-half (1 ½) feet or more in depth exist for any period of greater than seven (7) consecutive days and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or similarly effective barrier of at least four (4) feet in height with support posts spaced no farther apart than ten (10) feet. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of seven (7) days or more, access to such slopes shall be barred by a fence or some similarly effective barrier of at least four (4) feet in height with support posts spaced no farther apart than ten (10) feet.

- (2) As an alternative to the fencing requirements of *Section 7.17.4 C(1) and (2) of this Ordinance*, the entire perimeter of the property on which a Mining Operation is located may be fenced or protected by some other similarly effective barrier of at least four (4) feet in height with support posts spaced no farther apart than ten (10) feet.
- D. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed within a margin of safety as determined by the Public Works Director. Access roads connecting to public roads shall be sufficiently wide to accommodate two-way hauling traffic. A truck staging area shall be provided on the applicant's property. Trucks shall not queue on public roads while waiting to load or unload. Ingress and egress points from or onto any public road or highway shall be clearly signed "TRUCKS HAULING" advising traffic in both directions of this activity. Intersections of public roads with access roads shall be maintained by the mine operator, and shall be kept clean and free from excessive mud, debris or asphalt tracked out from the mining site. Intersections of public roads with access roads shall be repaired by the mine operator if the public road surfaces or shoulders in the mining area have broken down due to repeated traffic by mining trucks or equipment. Turn lanes shall be constructed on public roads at the entrance to the mining site if determined necessary by the appropriate road authority. The need for road improvements, maintenance or repair will be determined by the Minnesota Department of Transportation in the case of state highways; by the Stearns County Public Works Director in the case of County roads; and by the appropriate Township Board of Supervisors in the case of Township roads.
- E. Screening Barrier. To minimize problems of dust and noise and to shield Mining Operations from public view, a screening barrier may be required between the mining site and adjacent properties or public roads. If a screening barrier is required by the Planning Commission, the barrier shall be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a type of fast growing trees agreed upon between the applicant and the Department. In all cases, existing trees and ground cover along a public road and property line shall be preserved and maintained for the depth of the setback, except where traffic safety requires cutting and trimming or except where alteration or destruction of the trees and/or ground cover is necessary for an approved reclamation plan.
- F. Setback. The following setback requirements shall apply to Mining Operations:

- (1) The processing of mined materials shall not be conducted closer than one hundred (100) feet to the property line, nor closer than five hundred (500) feet to any residential dwelling unit.
  - (2) Unless approved in writing between the affected property owner and the mining operator, mining of any materials shall not be conducted closer than two hundred (200) feet of any residential dwelling unit or residential zoning district boundary.
  - (3) For mining operations approved prior to May 24, 2011 mining shall not be conducted within thirty (30) feet of any public road right of way unless approved in writing by the applicable road authority. For mining operations approved after May 24, 2011 mining shall not be conducted within fifty (50) feet of any public road right of way unless approved in writing by the applicable road authority. Mining of materials shall not be conducted closer than thirty (30) feet to any property line.
  - (4) Mining Operations shall not be conducted closer than two hundred (200) feet from the ordinary high water mark of any public water classified in *Section 10.2.3 of this Ordinance*.
- G. Hours of Operation. All hours of operation shall be set in the Interim Use Permit as approved by the Board.
- H. Access Roads. All access roads from Mining Operations to public highways, roads or streets or to adjoining property shall be paved or otherwise maintained to control dust. Ingress and egress access points from or onto any road or highway shall be clearly signed and those signed access points shall be utilized. Precautions must be taken to minimize the deposit of materials from trucks onto public roads.
- I. Vertical faces shall be kept to a minimum except during actual mining.
- J. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as necessary to preserve a reasonably neat appearance, to prevent seeding on adjoining property and to comply with the requirements of *Minnesota Statutes, section 18.191; or successor statutes*.
- K. Complaints. Complaints regarding Mining Operations shall be forwarded to the Environmental Services Department for processing. The Department shall make timely investigation of complaints and shall endeavor to resolve complaints utilizing such dispute resolution process as may be developed by the County.
- L. Signage. An informational sign shall be erected at the intersection of the primary access road and the public road servicing the site, identifying the corporate or personal name(s) of the property owner(s) and telephone number(s) of the property owner, the site operator and the hauling contractor. Signs required by this Section shall be clearly visible from the public road and shall conform with the signage requirements of *Section 7.25 of this Ordinance*.

**7.17.5 Land Reclamation**

All mining sites shall be reclaimed immediately after Mining Operations cease. Reclamation shall be completed within one (1) year. The following standards shall apply:

- A. Within a period of three (3) months after final termination of a Mining Operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of an interim use permit for a Mining Operation, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.
- B. The peaks and depressions of the mined area shall be graded and back-filled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding. Finished slopes shall be stabilized to minimize erosion due to rainfall.
- C. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after Mining Operations cease.
- D. A performance surety, payable to the County of Stearns, shall be provided. The permit shall specify the amount and type of surety required. The surety shall be used to reimburse the County for any monies, labor and/or material expended to bring the operation into compliance with the conditions of the permit or ordinance requirements. The surety may be used after expiration or revocation of the permit and failure to execute a phase of a restoration plan specifically scheduled in the permit or Ordinance.

**7.18 Nuisances**

No use or structure shall be operated or occupied in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of the property by any person of normal sensitivities or to otherwise create a public nuisance.

**7.18.1 Air Emissions**

All uses shall comply with the standards governing air emissions as regulated by the Minnesota Pollution Control Agency (MPCA).

**7.18.2 Direct Discharge of Waste**

All uses shall comply with the standards governing waste discharge as regulated by the Minnesota Pollution Control Agency (MPCA).

**7.18.3 Explosives and Flammable Materials**

All uses involving the manufacture, storage or use of explosive or flammable materials shall comply with all applicable regulations, including the Minnesota Building Code and the Minnesota Uniform Fire Code and shall meet the following requirements:

- A. All uses involving the manufacture, storage or use of explosive or flammable materials shall employ best management practices and the

provision of adequate safety devices to guard against the hazards of fire and explosion and adequate fire fighting and fire-suppression devices standard in the industry.

- B. The manufacture, storage or use of any explosive or blasting agent, as defined by the Uniform Fire Code, shall be prohibited in any non-industrial zoning district.
- C. The storage of any flammable liquid shall be subject to the requirements established under the Uniform Fire Code and review by the State Fire Marshal.

#### **7.18.4 Glare and Heat**

Uses producing glare or heat shall be performed within a completely enclosed building in such a manner as to make such glare and heat completely imperceptible from any point along the property line.

#### **7.18.5 Hazardous Materials**

All uses shall comply with the standards governing hazardous materials as regulated by the Minnesota Pollution Control Agency (MPCA).

#### **7.18.6 Noise**

All uses shall comply with the standards governing noise as regulated by the Minnesota Pollution Control Agency (MPCA).

#### **7.18.7 Odor Emissions**

All uses shall comply with the standards governing odor emissions as regulated by the Minnesota Pollution Control Agency (MPCA).

#### **7.18.8 Vibration**

Used producing vibration shall be conducted in such a manner as to make the vibration completely imperceptible from any point along the property line.

#### **7.18.9 Water Pollution**

All uses shall comply with the standards governing water pollution as regulated by the Minnesota Pollution Control Agency.

### **7.19 Parking and Loading**

#### **7.19.1 Standards**

- A. Parking spaces for residential parking shall be on the same lot as the residential dwelling.
- B. Off-street parking areas in any district shall not be utilized for open storage of goods or for the storage of vehicles that are inoperable, for sale or for rent.
- C. Loading areas shall be sufficient to meet the requirement of the use and shall provide adequate area for parking and maneuvering on the site without impact on adjacent properties or the public right-of-way.

#### **7.19.2 Design and Maintenance of Off-street Parking Areas**

- A. Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area in accordance with an approved stormwater management plan. Durable and dustless

surface may include crushed rock and similar treatment. Parking areas for six (6) or fewer vehicles shall be exempt from the provisions of this Section.

- B. A parking space shall be at least nine (9) feet wide by twenty (20) feet long. In considering parking lots, a standard of three hundred (300) square feet per parking space shall be used to compute total requirements including maneuvering areas.
- C. Existing off-street parking spaces existing on or before the effective date of this ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.
- D. Off street parking areas shall be screened when any of the following circumstances exist:
  - (1) When a commercial/recreational or industrial use off street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an existing residential use or residential zone.
  - (2) When any driveway to a commercial/recreational or industrial use off street parking area of more than six (6) parking spaces is within fifteen (15) feet of an existing residential use or residential zoning district.
- E. Off-street parking areas shall be of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees and shall be as set forth in the following table. When the calculation of the number of parking spaces required results in a fraction, the parking spaces required shall be increased to the nearest whole number. Parking within the enclosed structures(s) is permitted provided the space is usable.

Churches, Community Buildings, and Other Places of Public Assembly	One space for each three seats or for each five feet of pew length, based on maximum design capacity.
Day Care Facilities	One space for each two employees, plus one drop-off space for each five enrollees
Eating and Drinking Establishments	One space for each three seats, based on maximum design capacity.
Golf Courses	Five spaces for each hole, plus one space for each ten seats in the club house.
Hotels and Motels	One space for each unit.
Industrial Uses	One space for each two employees on the major shift, or one space for each two thousand square feet of gross floor area, whichever is greater.
Offices and Clinics	One space for each three hundred square feet of gross floor area.
Residential Uses	Two spaces per dwelling unit.



Retail and Service Establishments	One space for each two hundred fifty square feet of gross floor area plus one space per one thousand square feet of outdoor sales/display area
Resorts, Campgrounds, Recreational Vehicle Parks	Three spaces for each unit/lot, two spaces within unit/lot and one space in overflow parking area
Schools	One space for each four students based on design capacity.
Service Stations/Convenience Stores	One space for each service bay, plus one space for each three hundred square feet of gross floor area.
Uses Not Specifically Noted	As determined by the Director based on a parking study and/or industry standards.
Vacation/Private Home Rental	One space for every three people, based on permitted occupancy

- F. In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use except that the Planning Commission or Board may consider the joint use of a parking area where it is known that because of a time element, the parking facilities will not be needed by more than one of the users at one time.

## **7.20 Pipeline Easement Setback**

Structures shall not be placed within the boundary of any pipeline easement as defined in *Minnesota Rules, section 7535.0100, subp. 6; or successor rules.*

## **7.21 Principal Structures**

Except for the commercial and industrial districts, there shall be no more than one (1) principal structure on any one (1) parcel of land, unless otherwise allowed in this Ordinance. When more than one residential dwelling exists on a parcel of land and the residential dwellings were existing prior to April 21, 2000, the property owner has the option to declare one of the residential dwellings the principal structure. Any other residential dwelling(s) on the parcel would be subject to the nonconformity restrictions in *Section 5 of this Ordinance; or successor ordinance.* A Declaration of Restrictions shall be recorded in the Office of the County Recorder prior to issuance of any construction site permit declaring one of the residential dwellings the principal structure.

## **7.22 Recreational Vehicles**

**7.22.1** Recreational Vehicles shall meet the structural setback requirements of this Ordinance.

**7.22.2** Only one (1) Recreational Vehicle is allowed per parcel. If the parcel has a Residential Dwelling Unit, a Recreational Vehicle is not allowed.

- 7.22.3** A Recreational Vehicle located on a parcel for more than thirty (30) days in any year and occupied at the location at any time is the principal structure and considered a Residential Dwelling Unit. A permit pursuant to *Section 4.11 of this Ordinance* is required.
- 7.22.4** More than one (1) Recreational Vehicle on a parcel shall follow the provisions of *Section 6.48 and Section 10.2.23 of this Ordinance*.
- 7.22.5** The provisions of this Section do not apply to homeowners who are storing a Recreational Vehicle on their property.
- 7.22.6** Each Recreational Vehicle located on a parcel in violation of *this Ordinance* shall be a separate offence.
- 7.22.7** A property owner who has received two or more written notices of violation from the Department is subject to criminal prosecution pursuant to Section 12 of this Ordinance.
- 7.22.8** Each day that a violation of this Section continues constitutes a separate offense.

### **7.23 Residential Dwelling Unit**

In all districts where single or multi-family dwellings are permitted, the following standards shall apply, except for temporary dwellings permitted under *Section 7.29 of this Ordinance*:

- 7.23.1** Any manufactured home to be used as a residential dwelling unit shall be no less than fourteen (14) feet in width and shall bear a Seal of Compliance issued by the State of Minnesota.
- 7.23.2** No accessory building or recreational vehicle shall be used at any time as a dwelling unit, unless otherwise provided in this Ordinance.
- 7.23.3** No manufactured home shall be moved into the unincorporated areas of Stearns County that does not meet the *Manufactured Home Building Code as defined in Minnesota Statutes, section 327.31, subdivision 3; or successor statutes*.

### **7.24 Screening**

The following standards shall apply when screening is required by the provisions of this Ordinance:

- 7.24.1** Any screening that is required in this Ordinance shall consist of earth mounds, berms or ground forms; neutral colored fences and walls; landscaping (plant materials) or landscape fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.
- 7.24.2** The use of screen walls shall consist of materials of similar type, quality and appearance as that of the principal structure. Such screens shall be at least six (6) feet in height and provide a minimum opaqueness of eighty (80) percent.
- 7.24.3** The use of berming or landscaping (eighty (80) percent opaque at the time of maturity). Planting screens shall consist of healthy plant materials at least six (6) feet in height at the time of planting.
- 7.24.4** Screening fences and walls that are in disrepair shall be repaired. Planting screens shall be maintained in a neat and healthy condition. Plantings that have died shall be replaced within the current or next growing season.

## **7.25 Sign Regulations**

All signs shall be subject to the standards in *Section 7.25 of this Ordinance* and any specific standards set forth in other provisions of *this Ordinance*.

**7.25.1 Purpose.** The purpose of this Section is to promote the health, safety, and general welfare of the public and to conserve the natural and scenic views of the County. It is necessary to reasonably and effectively regulate and control the erection of signs while preserving the right of free speech and expression, providing easy and pleasant communication between people and their surroundings and avoiding excessive levels of visual clutter and distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities or community appearance. This Section is not intended to and does not restrict, limit, or control the content or message of signs.

### **7.25.2 General Standards**

- A. All signs, other than government signs, are prohibited within public rights-of-way and easements or on any other public property.
- B. Illuminated signs may be permitted, but devices giving off an intermittent or rotating beam of light shall be prohibited. Flood lighting shall be focused upon the sign. No lighting for signs shall directly reflect light beams onto any public street or residential structure. Signs shall not be illuminated beyond any lot line.
- C. No sign shall, by reason of position, shape or color, interfere in any way with the proper functioning or purpose of a traffic sign or signal.
- D. No sign shall be painted directly on the roof or outside wall of a building, nor shall paper or similar signs be attached directly to a building wall with adhesive or similar means.
- E. No sign shall be painted or placed on fences, rocks or similar structures or features.
- F. No sign in excess of three (3) square feet per surface with no more than two (2) surfaces shall be less than five hundred (500) feet from the intersection of a public road and a railroad, provided that a sign may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.
- G. All signs shall be set back from the right-of-way of public roads not less than ten (10) feet from the closest part of the sign. All signs shall be set back ten (10) feet from adjacent property lines.
- H. No sign shall be erected that imitates any official marker or government sign or that otherwise constitutes a traffic hazard.
- I. No sign shall be permitted that obstructs any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress of any building or structure.
- J. A Construction Site Permit pursuant to *Section 4.11 of this Ordinance* is required for Off-Premise Signs (Billboards). A Construction Site Permit is not required for any other signs.

**7.25.3 Signs Permitted in All Zoning Districts.** The following signs are allowed in all zoning districts notwithstanding the provisions set forth in *Sections 7.25.4 through 7.25.6 of this Ordinance*.

- A. Subject to *Minnesota Statute Section 211.B.045, or successor statute*, signs containing non-commercial speech may be posted beginning forty six (46) days before a primary election in a general election year until ten (10) days following the general election.
- B. Carvings into stone, concrete or similar materials or made of bronze, steel, aluminum or other permanent type of construction incorporated into the design and structure of a building and containing only non-commercial speech.
- C. Signs posted in accordance with *Minnesota Statutes, section 97B.001; or successor statute*
- D. Government signs.
- E. One sign, not to exceed thirty two (32) square feet per surface with no sign having more than two (2) surfaces, shall be allowed for each street entrance to a development or municipality.
- F. One non-commercial sign per parcel not exceeding thirty-two (32) square feet per surface with no more than two (2) surfaces.
- G. For signs on tillable farmland, up to twenty (20) signs not exceeding three (3) square feet per surface, with no more than two surfaces per sign, may be displayed per one hundred (100) feet of lot frontage along a public road no closer than two (2) feet apart when visible from the public right-of-way.

**7.25.4 Signs Permitted in Agricultural, Transitional, Residential, Rural Townsite, Scenic River, Residential Manufactured Home, Urban Expansion and Island Preservation Districts**

- A. One non-commercial sign for each parcel not to exceed nine (9) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.
- B. One sign for each permitted non-residential use or use by conditional use permit may be allowed. Such signs shall not exceed thirty-two (32) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces. On principal arterial and minor arterial streets, signs in excess of thirty-two (32) square feet may be permitted by conditional use, but in no case shall the total square footage exceed sixty four (64) square feet per surface or one hundred twenty eight (128) total square feet.
- C. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated by flood lights, provided the source of light is not visible from a public right-of-way or adjacent property.
- D. No sign shall exceed ten (10) feet in height above the average grade level.
- E. One temporary sign not exceeding eighty (80) square feet per surface with no more than two (2) surfaces may be displayed on a parcel during the time that the parcel is for sale, available for lease, or under construction.

**7.25.5 Signs Permitted in Commercial and Industrial Districts**

- A. One sign for each parcel not to exceed six (6) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.
- B. The aggregate square footage of signs per lot, including all sign surfaces, shall not exceed two hundred fifty (250) square feet, exclusive of off-premise (billboards) signs.
- C. No sign shall extend in height above the parapet wall of any principal building, except that one (1) free standing sign shall be allowed not exceeding twenty-five (25) feet in height above the average grade.
- D. No sign shall be mounted on a structure on or above the roof line.
- E. One temporary sign not to exceed one hundred thirty (130) square feet with no more than two (2) surfaces, may be displayed on a parcel during the time that the parcel is for sale, available for lease, or under construction.

**7.25.6 Signs Permitted in Educational/Ecclesiastical District**

- A. Signs not exceeding thirty-two (32) square feet per surface.
- B. Signs in excess of thirty-two (32) square feet may be permitted by conditional use, but in no case shall the total square footage exceed sixty four (64) square feet per surface or one hundred twenty eight (128) total square feet.
- C. No sign shall be mounted on a structure on or above the roof line.

**7.25.7 Off-premise Signs (billboards)**

- A. Off-premise signs (billboards) may be permitted as a conditional use in any industrial district and the commercial district, providing sign has no more than two surfaces and the total square footage of the sign surface area is not more than six hundred (600) square feet for signs located along principal arterial streets. On other streets, the total square footage of sign area shall not be more than four hundred (400) square feet.
- B. No off-premise sign (billboard) shall be located within five hundred (500) feet of parks, historical sites, public picnic or rest areas, or within two hundred (200) feet of church or school property.
- C. No off-premise sign (billboard) shall be located closer than thirteen hundred (1300) feet horizontal distance from any other off-premise sign measured in any direction. Off-premise signs shall not exceed thirty (30) feet above the average ground level at the base of the sign.

**7.25.8 Nonconforming Signs**

A legal nonconforming sign is a sign legally erected under the official controls in existence at the time it was erected and that would not be permitted under the official controls as written now. Legal nonconforming signs may be displayed subject to the following restrictions and *Minnesota Statute Section 394.36, or successor statute*:

- A. The sign is not relocated or replaced.

- B. The structure or size of the sign is not altered in any way except toward compliance with this Ordinance. This does not refer to change of copy or normal maintenance.

## **7.26 Stormwater Management**

The purpose of this Section is to prevent or reduce, to the most practicable extent, the negative effects of stormwater runoff and to protect the water and soil resources of Stearns County through the use of best management practices and/or stormwater management facilities.

### **7.26.1 Applicability:**

A stormwater management plan shall be required and all stormwater management provisions shall apply to any of the following activities within Stearns County:

- A. Any development activity that results in the cumulative addition of one (1) acre or greater of new impervious surface to the site.
- B. Any new resort and/or planned unit development in accordance with *Section 10.2.23 B of this Ordinance*.
- C. Redevelopment of any existing parcel that currently exceeds lot coverage limits except that redevelopment of impervious area already being treated by an approved stormwater plan does not require a new plan to be implemented. A letter shall be submitted from an engineer certifying that the existing stormwater facilities are properly installed, functioning and maintained.
- D. Expansions to existing resorts or the replacement of structures within existing resorts in accordance with *Section 10.2.23 D and E of this Ordinance*.
- E. Any other land development activity including, but not limited to, redevelopment or alteration of existing buildings and other structures that the Director determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage or significantly impact a lake, stream or wetland.

### **7.26.2 General Standards**

Development activities requiring the submittal of a stormwater management plan shall conform to the following standards:

- A. Developments shall use best management practices and stormwater management facilities to treat stormwater runoff generated by new or redeveloped impervious surfaces. Designs using surface drainage, vegetation and infiltration shall be given preference over buried pipes, manmade materials and facilities.
- B. The applicant shall be responsible for the design, construction and maintenance of any best management practices and/or stormwater management facilities identified in the stormwater management plan.
- C. The following stormwater management practices shall be investigated in developing a stormwater management plan, in the following descending order of preference:
  - (1) Natural infiltration of precipitation on-site;

- (2) Flow attenuation by use of open vegetated swales and/or natural depressions;
- (3) Stormwater detention facilities.
- D. The applicant shall give consideration to reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as 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 natural feature.

#### **7.26.3 Stormwater Management Plans**

Applicants shall submit a stormwater management plan to the Department for approval. All required plans shall be drawn to an easily legible scale, shall be clearly labeled and shall be signed by its designer. A minimum scale of 1:100 shall be used, unless otherwise approved by the Director. Stormwater management plans shall, at a minimum, include the following information:

- A. A narrative describing the proposed project, including an implementation schedule.
- B. A grading plan shall be submitted and include:
  - (1) Existing and proposed property lines and lot dimensions.
  - (2) Existing and proposed drainage, utility and other easements.
  - (3) Existing zoning classifications for land within and abutting the development.
  - (4) Location and dimensions of existing and proposed public and private roads and structures.
  - (5) All natural and artificial water features including, but not limited to, lakes, ponds, streams (including intermittent streams) and ditches. Show the ordinary high water level of all lakes, one hundred (100) year flood elevations and any delineated wetland boundaries.
  - (6) Existing vegetative cover, wooded areas and a clear boundary of any vegetation proposed for removal.
  - (7) Existing and proposed elevations shown at two (2) foot contours, extending at least two hundred (200) feet beyond the property boundaries or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.
  - (8) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities.
- C. A drainage plan of the developed site showing the direction stormwater will be conveyed, locations where stormwater will be allowed to collect and locations of all discharge points from the property. The drainage plan shall show all drains or tile lines on the property.
- D. An Erosion and Sediment Control Plan in accordance with *Section 7.10.2 of this Ordinance*.
- E. A vicinity map which includes the locations of any designated trout stream within two thousand (2000) feet of the property boundary.
- F. A landscape plan or written description of methods used to achieve final stabilization, the type of stabilization and rate of application. Stabilization methods shall be described for each major phase of construction including,

but not limited to, mass grading operations and stabilization for individual lots within any development.

- G. Information shall be included which clearly identifies all elevations and grades for streets, ditches, stormwater management facilities, wetlands, lakes, pipe inverts and pipe outlets.
- H. A map showing the boundaries of each soil type, the hydrologic classification of each soil type and the estimated acreage of each soil type. The soil information shall be based on the most current version of the *United States Department of Agriculture (USDA) electronic Field Office Technical Guide (eFOTG)*.
- I. A detailed schedule of anticipated starting date and completion date of each phase of construction and/or land disturbing activity, including the installation of erosion and sediment control measures needed to meet the requirements of *Section 7.10 of this Ordinance*.
- J. A work and materials list for all proposed site grading, stormwater management, and erosion and sediment control related operations.
- K. An evaluation of all landlocked lakes, wetlands and stormwater facilities in the design analysis for the one hundred (100) year storm event which demonstrates that the runoff from a one hundred (100) year storm event will not impact structures and access within the development.
- L. A detailed description of existing and proposed runoff curve numbers.
- M. Stormwater management calculations shall list the new impervious area created in each sub-watershed and shall include the assumptions and calculations used for determining impervious areas, such as house pad, driveway and outbuildings.

#### **7.26.4 Stormwater Management Facility Maintenance Standards**

- A. All stormwater management facilities shall be inspected and maintained in perpetuity. After implementation of the approved stormwater management plan, long term inspection and maintenance responsibilities may be transferred to a separate entity such as, but not limited to, a Township after official acceptance by the Township Board, a Watershed District after official acceptance by the District Board, a legally organized homeowner's association or any entity approved by the Director.
- B. Facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes and to be structurally sound.
- C. An operations and maintenance plan shall be submitted to the Department with the stormwater management plan and include:
  - (1) Name and contact information of the entity responsible for long term maintenance.
  - (2) Inspection schedule.
  - (3) Inspection checklist to be used and inspection protocol.
  - (4) Description of how inspections and maintenance activities will be funded.
- D. All inspection and maintenance documents shall be kept by the responsible party for a minimum of ten (10) years.



- E. It shall be the responsibility of the applicant to obtain any necessary easements to allow for access to the stormwater management facilities for inspection and/or maintenance purposes.

#### **7.26.5 Financial Guarantee**

Once a stormwater management plan is approved, a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the County equal to one hundred twenty-five (125) percent of site grading and erosion/sediment control costs shall be submitted to the County. This guarantee is necessary to ensure the satisfactory installation, completion and maintenance of the measures as required in the stormwater management plan.

- A. Final plat approval or issuance of a conditional use permit shall not be granted until a financial guarantee has been submitted to the County.
- B. Release of any portion of the financial guarantee is contingent on approval from a professional engineer that as built conditions meet original design specifications and a site visit by County staff is conducted to evaluate the condition of erosion and sediment control measures.

#### **7.26.6 Design Standards – Stormwater detention facilities**

Permanent stormwater detention facilities (when required) shall be designed according to the most current technology as reflected in the Minnesota Pollution Control Agency's publication "*Protecting Water Quality in Urban Areas*" (2000) and "*Minnesota Stormwater Manual*" (2005), as amended, and shall conform to, at a minimum, the following design standards:

- A. Calculations shall be included that clearly show the effects of the proposed development on the peak rate of discharge, the total volume of discharge, channel velocities and other potential drainage impacts both on and off the development site. All stormwater management calculations submitted to the Department for review shall include sufficient data to evaluate the changes to the stormwater drainage characteristics within the affected watershed. The Director may require the applicant to provide any additional information, calculations or data if needed for a complete review.
- B. The two (2), ten (10) and one hundred (100) year twenty four (24) hour frequency storm event shall be evaluated and modeled for Stormwater Management Plans developed in accordance with Sections 7.26.1 A and B of this Ordinance.
- C. The two (2) and ten (10) year twenty four (24) hour frequency storm event shall be evaluated and modeled for Stormwater Management Plans developed in accordance with Sections 7.26.1 C and D of this Ordinance. New stormwater management facilities for applicable sites shall be designed to accommodate the runoff from a ten (10) year storm event. All systems and facilities shall be designed to withstand the runoff from a one hundred (100) year storm event without damage to the system or facility, downstream areas and without significant risk to human health and safety.
- D. Rainfall amounts for the design storms can be found using the U.S. Weather Bureau Technical Paper No. 40 (TS 40) rainfall intensity duration curves for a Type II rainfall distribution or National Oceanic and

Atmospheric Administration (NOAA) Atlas 14 Point Precipitation Frequency Estimates.

- E. New constructed stormwater outfalls to any public water or wetland must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- F. Stormwater facilities shall be designed assuming that existing drains and drain tiles no longer function, unless:
  - (1) An easement is supplied for future maintenance; and
  - (2) The applicant demonstrates that the drain or tile has the capacity and service condition to make it a suitable component of the stormwater management system.
- G. Where there is discharge to an existing roadway, ditch, storm sewer or other public facility, the applicant shall show that there is no net increase in runoff volume discharged to the public facility and that the proposed activity will not degrade any critical roadway element or negatively impact its safety, maintenance or function.
- H. Specific Standards for Wet Sedimentation Basins
  - (1) All wet detention basins shall be designed and constructed in accordance with the standards listed in Part III of the MPCA *“General Permit Authorization to Discharge Stormwater Associated with Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Program”* and *“The Minnesota Stormwater Manual”*.
  - (2) Designs for wet detention basins shall include, but not be limited to, calculations for estimated inflow and outflow, permanent and temporary storage volumes, mean depth, outlet design, downstream stabilization, emergency spillways, basin profiles and basin cross sections.
  - (3) In the Industrial (I) and Commercial (C) zoning districts, skimmers shall be included on the outlet of wet detention basins. Construction details of the skimmers shall be shown on the construction plans for the wet detention basin.
  - (4) Ground water sensitivity. Wet detention basins located in areas identified as being highly susceptible to ground water contamination, except ground water discharge areas, shall be designed so that the bottom of the basin is located at least three feet above the seasonal high ground water elevation and/or bedrock and be lined with two (2) feet of soil having a permeability less than five (5) minutes per inch.
- I. Peak Rate of Discharge Standards
  - (1) Peak discharge rates for all developments shall be derived using the standard methods of the *Natural Resources Conservation Service TR 55* or *TR 20* as defined in the current *Hydrology Guide for Minnesota*.
  - (2) Applicants shall provide pre-development and proposed post-development calculations for each sub-watershed within the property boundary or at the point of discharge from the property. Calculations shall show that peak discharge rates for the proposed post-development conditions do not exceed pre-development conditions at

the property boundary for the modeled storm events in accordance with *Section 7.26.6.B or C of this Ordinance*.

- (3) Where pre-development calculations indicate no runoff, the infiltration standards required in *Section 7.26.6 J of this Ordinance* shall be used to demonstrate compliance with a no runoff requirement for the storm frequency and duration being considered.

J. Volume Discharge Standards

- (1) Total volume discharges shall be derived using the standard methods of *Natural Resources Conservation Service TR 55* or *TR 20* as defined in the current *Hydrology Guide for Minnesota*.
- (2) All stormwater management facilities shall be designed so that the volume of runoff discharged from the property after development does not exceed pre-development conditions for modeled storm events in accordance with *Section 7.26.6 B or C of this Ordinance*.
- (3) For evaluation of post-development runoff, drained hydric soils shall be assumed to revert to an undrained condition unless the applicant demonstrates that publicly owned and maintained drainage facilities will be adequate to maintain the drained condition.

K. Infiltration/Filtration Standards

- (1) All infiltration/filtration practices shall be designed and constructed in accordance with the standards listed in Part III of the MPCA "*General Permit Authorization to Discharge Stormwater Associated with Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Program*" and the "*Minnesota Stormwater Manual*".
- (2) Stormwater management facilities, when site conditions permit, shall be designed with the capability to infiltrate one-half (1/2) inch of runoff from all newly created or redeveloped impervious surfaces within forty eight (48) hours.
- (3) Infiltration areas shall be limited to the horizontal areas subject to prolonged wetting. Areas of permanent pools shall not be accepted as an infiltration practice.
- (4) Infiltration areas located in areas of high or very high susceptibility to groundwater contamination shall have either natural undisturbed soil or be lined with at least two (2) feet of soil with a permeability of five (5) minutes per inch or slower.
- (5) Infiltration areas shall be at least three (3) feet above the seasonal high ground water elevation and/or bedrock.

L. Standards for discharges to Designated Trout Streams:

- (1) The stormwater management plan shall include provisions and practices to reduce the temperature of runoff from sites that discharge stormwater runoff within two thousand (2000) feet of a river or stream identified by the Minnesota Department of Natural Resources as a designated trout stream.
- (2) The stormwater management plan does not need to meet the above rule if the applicant can justify by use of a model, that practices are not necessary because the temperature increase of runoff from the site post-development will be zero (0).

**7.26.7 Compliance with storm water management plans.**

If an applicant does not implement the requirements of a stormwater management plan, the Director may issue an abatement order as outlined in *Section 4.23 of this Ordinance*.

**7.27 Swimming Pools****7.27.1 Performance Standards**

Swimming pools shall comply with the following standards:

- A. The pool shall meet any required setback.
- B. The pool itself or the yard around the pool shall be enclosed by a wall, fence or combination thereof which is at least six (6) feet in height, with a self-closing gate capable of being secured with a lock so as to prevent uncontrolled access. All points of access shall be made lockable. Automatic pool covers meeting the standards of F1246-91 of the American Society of Testing and Materials (ASTM), or successor standard; are allowed in lieu of the fencing requirement.
- C. For in-ground pools, required fencing shall be of durable material and shall be so designed as to discourage climbing. Building walls may be used to meet this requirement.
- D. For above-ground pools, pool sides that are vertical or slanted outward may contribute to the required fencing, providing all points of access are controlled, including the removal of all ladders or stairs when the pool is not in use.

**7.28 Telecommunication Equipment, Towers and Support Structures****7.28.1 Purpose**

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the Board finds that these regulations are necessary in order to:

- A. Facilitate the provision of wireless telecommunication services to the residents and businesses of the County;
- B. Minimize adverse visual effects of towers through careful design and siting standards;
- C. Avoid potential damage to adjacent properties from tower failure;
- D. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the County; and
- E. To encourage clustering of self support/lattice and guyed towers in appropriate locations.
- F. To comply with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) and as interpreted by the Federal Communications Commission's (FCC) Acceleration of Broadband Deployment Report and Order.

**7.28.2 General Standards**

The following standards shall apply to all antennas and antenna support structures:

- A. All obsolete and unused antennas shall be removed within twelve (12) months of cessation of use.
- B. All antennas shall be in compliance with all Federal, State and local building, electrical and any other relevant code requirement.
- C. Structural design, mounting and installation of any antenna support structure shall be in compliance with manufacturer's specifications. The construction plans and design of any antenna requiring a permit shall be verified and approved by a registered professional engineer.
- D. No advertising message or identification shall be affixed to any antenna structure.
- E. Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public health and safety. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements and shall be set back a minimum of five (5) feet from all lot lines. Guy wires within ten (10) feet of the ground surface shall be fenced within an enclosure or maintained with a cover of highly reflective material to prevent accidental collision.
- F. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state or local agency licenses or proof of application thereof.
- G. Antenna support structures under two hundred (200) feet in height shall be painted or coated silver or have a galvanized finish to reduce visual impact, unless otherwise required by federal law. Silver or galvanized finishes shall be required unless the setting or natural surroundings can be used to justify another color.
- H. No land may be subdivided for the purpose of providing space for an antenna unless all lot size requirements for the applicable zoning district are met and subdivision approval is obtained.
- I. The addition (collocation), replacement or removal of new transmission equipment for modification of an existing antenna support structure or base station to an existing eligible support structure shall require a construction site permit and be considered a permitted use subject to the following standards:
  - (1) Replacement of the underlying structure is not allowed under this provision.
  - (2) The Department must respond to applications within sixty (60) days unless stopped by mutual agreement of both parties or upon notification that an application is incomplete if notice is given within thirty (30) days of application submission. The timeframe begins to run when an application is first submitted, not when it is deemed complete by the Department.
  - (3) For antenna support structures outside of public rights-of-way: increases in the height of the antenna support structures are allowed provided the increase is not more than twenty (20) feet or ten (10) percent, whichever is greater. Changes in height are

cumulative and are measured from the tower or base station as originally approved.

- (4) For antenna support structures in public rights-of-way: increases in the height of the tower are allowed provided the increase is not more than ten (10) feet or ten (10) percent, whichever is greater. Changes in height are cumulative and are measured from the tower or base station as originally approved.
- (5) For antenna support structures outside the public rights-of-way: an antenna is allowed to protrude from the edge of the tower provided it doesn't protrude twenty (20) feet or more than the width of the tower at the level of the appurtenance.
- (6) For antenna support structures inside the public rights-of-way and all base stations: an antenna is allowed to protrude from the edge of the structure provided it doesn't protrude more than six (6) feet.
- (7) Installation of up to four (4) new equipment cabinets for the technology involved for the collocation is allowed.
- (8) Excavation or construction outside of the current site of the antenna support structure or base station is not allowed.
- (9) The addition or replacement of antennas and/or the placement of associated equipment cannot defeat stealth elements of the tower or base station.
- (10) The tower must be in compliance with existing conditions associated with prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets or new excavation that does not exceed the thresholds listed in this section.

### **7.28.3 Permitted and Accessory Uses**

- A. Radio and Television receiving antennas and satellite dish antennas shall be permitted in all districts and shall not require any permit provided the following standards are met:
  - (1) The maximum support structure height shall be seventy five (75) feet and all other standards contained in *Section 7.28.2 of this Ordinance* shall be met.
  - (2) Any antenna or antenna support structure not located on a building shall be located in the rear yard, no closer to any property line than the height of the structure.
  - (3) The installation of more than one (1) support structure per property shall require the approval of a conditional use permit.
  - (4) Satellite dish antennas larger than two (2) meters in diameter shall meet all building setback requirements, and satellite dishes over three (3) meters in diameter are prohibited in all residential districts.
- B. Private short wave radio antennas and other private radio transmitting or receiving antennas are allowed in all districts, provided that the following standards are met:

- (1) The maximum support structure height shall be seventy five (75) feet and all other standards contained in *Section 7.28.2 of this Ordinance* shall be met.
  - (2) A construction site permit shall be required in accordance with *Section 4.11 of this Ordinance*.
  - (3) Radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Antennas mounted on such tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
  - (4) Any antenna or antenna support structure not located on a building shall be located in the yard, no closer to any property line than the height of the structure.
- C. Commercial and Public Radio and Television Transmitting Antennas and Public Utility Microwave Antennas shall be allowed in the Industrial zoning districts subject to the following:
- (1) The antennas shall be considered an allowed conditional use subject to the procedures set forth in *Section 4.8 of this Ordinance* and all other applicable requirements of this Ordinance.
  - (2) Any antenna or transmitting tower shall be located on a continuous parcel having a dimension equal to the height of the antenna or transmitting tower measured from the base of the antenna or tower located nearest a property line and said property line, unless a registered structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
- D. Single or multiple tower AM radio transmitting antennas shall be allowed in the A-160, A-80 and A-40 zoning districts, subject to the following:
- (1) The AM radio transmitting antennas shall be considered an allowed conditional use subject to the procedures set forth in *Section 4.8 of this Ordinance* and all other applicable requirements of this Ordinance;
  - (2) Any AM transmitting antenna or transmitting tower shall be located on a continuous parcel having a dimension at least equal to the height of the antenna or transmitting tower as measured from the base of the antenna or tower located nearest a property line to said property line, unless a registered structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances;
  - (3) Single or multiple tower AM radio transmitting antennas are subject to the general standards found in *Section 7.28.2 of this Ordinance* and the standards and requirements found in *Section 7.28.5 of this Ordinance*, with the exception that *Sections 7.28.5 A(3) and B(3)* shall not apply

**7.28.4 Personal Wireless Service and Microwave Antennas**

- A. Transition (T-20), Residential (R-20, R-10, R-5, R-1), Rural Townsite (RT), Scenic River (SR), Residential Manufactured Home District (RMH), Educational/Ecclesiastical (EE) and Shoreland Overlay District:
  - (1) Antennas and support structures shall not exceed seventy five (75) feet in height in the T-20, R-20, R-10, R-5, R-1, RT, SR, RMH and EE District and the Shoreland Overlay District.
  - (2) Commercial antennas (other than co-location) and support structures of any type shall require a conditional use permit and be subject to all requirements for a conditional use permit including the requirements contained in *Section 7.28.5 of this Ordinance*.
  - (3) Any antenna or antenna support structure not located on a building shall be located in the rear yard, no closer to any property line than the height of the structure.
- B. Agricultural (A-160, A-80 and A-40) Districts:
  - (1) The Director may issue a construction site permit for any antenna support structure equal to or less than one hundred thirty (130) feet in height, or for any antenna to be located upon an existing building or structure which does not exceed fifteen (15) feet above the permitted structure height.
  - (2) A conditional use permit shall be required for any antenna or support structure over one hundred thirty (130) feet in height. No structure shall be located closer to any property line than the height of the structure.
- C. Commercial (C) and Industrial (I) Districts:
  - (1) The Director may issue a construction site permit for any antenna support structure equal to or less than one hundred thirty (130) feet in height, , or for any antenna to be located upon an existing building or structure which does not exceed fifteen (15) feet in height above the permitted structure height.
  - (2) A conditional use permit shall be required for any antenna or support structure over one hundred thirty (130) feet in height. No structure shall be located closer to any property line than one-half the height of the structure. Exceptions to such setback may be granted if a structural engineer licensed in Minnesota specifies in writing that any failure or collapse of the structure will occur within a lesser distance under all foreseeable circumstances.

**7.28.5 Standards and Requirements for Conditional Use Permits**

- A. Information Required with Conditional Use Permit Application  
In addition to any information required for a conditional use permit under the provisions of *Section 4.8.1 of this Ordinance*, no application for an antenna shall be complete unless the following data has been provided:
  - (1) Documentation of the area to be served, including a search ring for the antenna location. A narrative describing a search ring



- (with not less than a ¼ mile radius) for the request clearly explaining why the site was selected and what existing (over one hundred (100) feet in height) structures were available and why they are not suitable as locations or co-locations.
- (2) Documentation that the intended communications equipment for the proposed structure cannot be accommodated on any existing or approved structure within the search ring of the service area due to one or more of the following reasons:
- (a) The intended equipment would exceed the structural capacity of the existing or approved structure or building, as documented by a qualified structural engineer and the existing or approved structure cannot be reinforced or modified to accommodate planned equipment at a reasonable cost or within a reasonable time; or
  - (b) The intended equipment would cause interference with other existing or planned equipment at location as documented by a qualified radio frequency engineer, and the interference cannot be prevented at a reasonable cost; or
  - (c) No existing or approved structures or buildings within one-half (½) mile radius meet the radio frequency design criteria; or
  - (d) Existing or approved structures and buildings within one-half (½) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; or
  - (e) A good faith effort to co-locate on existing structures within a one-half (½) mile radius was made, but an agreement could not be reached.
- (3) An agreement stating that structures over one hundred thirty (130) feet in height will be designed for not less than three (3) users (including the applicant) with applicant and property owner commitment to co-location on reasonable market terms in good faith. Any prohibition of additional users on a tower will be considered a violation of the conditional use permit. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to, and become a part of, the permit.
- B. Standards and Conditions. In addition to any conditions included as a result of the process of issuing a conditional use permit, the following standards shall apply to all antennas and support structures unless specifically waived by the Board:
- (1) Antennas and support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the Uniform Building Code and all other applicable codes. Antennas shall be designed to conform to accepted electrical engineering methods and practices and to

comply with the provisions of the *National Electrical Code*; or *successor Code*.

- (2) Antenna support structures shall be constructed of, or treated with, corrosion resistant material.
- (3) Any proposed support structure over one hundred thirty (130) feet in height shall be designed, in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users. To allow for future rearrangement of antennas, the structure shall be designed to accept antennas mounted at no less than ten (10) foot intervals. Support structures less than one hundred thirty (130) feet and greater than seventy five (75) feet in height shall be designed for a total of two (2) users.
- (4) All support structures shall be reasonably protected against unauthorized climbing. The bottom of the structure (measured from ground level to twelve (12) feet above ground level) shall be designed in a manner to preclude unauthorized climbing and shall be enclosed with a minimum of an eight (8) foot high chain link fence with a locked gate.
- (5) All antennas and support structures shall utilize building materials, colors, textures, screening and landscaping that blend to the tower facilities within the surrounding natural setting and environment to the greatest extent possible.
- (6) No part of any antenna or support structure, nor any lines, cables, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway or sidewalk, unless specifically approved by the Board or otherwise provided for *in this Ordinance*.

## **7.29 Temporary Dwelling during Construction**

No accessory building shall be used at any time as a dwelling unit, except that an accessory building may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually under construction during occupancy of the accessory building and further that the accessory building is provided with garage doors.

## **7.30 Temporary Uses/Special Events**

Except as provided in this Section, the following temporary uses and special events shall be permitted in all zoning districts provided such temporary use or special event complies with the regulations of the zoning district in which the property is located and all other applicable regulations of this Ordinance are complied with:

**7.30.1** Garage sales shall be limited to a total of ten (10) days of operation per calendar year at any residential location.

**7.30.2** Storage of building materials and equipment or temporary buildings for construction purposes may be located on the site under construction for the duration of the construction or a period of one (1) year, whichever is less.

**7.30.3** Temporary amusement events, including the erection of tents for such events, may be allowed as a temporary use for a maximum of fifteen (15) days per

calendar year. In residential districts, such temporary amusement events shall be located on institutional or public property only. Additionally, temporary amusement events shall be subject to the provisions of *Stearns County Ordinance Number 18, or successor ordinance*.

**7.30.4** Promotional activities including outdoor sales and display may be allowed as a temporary use in Commercial and Industrial districts for a maximum of thirty (30) days per calendar year. Such sales and display may also be conducted within a tent or other temporary structure.

**7.30.5** In addition to the temporary uses and special events listed above, the Director may allow other temporary uses or special events for a maximum of fifteen (15) days per calendar year, provided that the proposed temporary use or special event is substantially similar to the temporary uses and special events listed above.

### **7.31 Traffic Visibility**

Nothing shall be placed or allowed to grow on corner lots in such a manner as to impede vision on the intersecting roadways. A clear line of vision between two and one-half (2.5) feet and ten (10) feet above the centerline grades of the intersecting roadways shall be maintained from the intersection to a distance of fifty (50) feet along each roadway (sight triangle).

### **7.32 Trash Enclosures**

Trash enclosures or recycling collection areas, when provided for any property other than one containing residential uses, shall be enclosed on at least three sides by a neutral colored fence or other screening material that is eighty (80) percent opaque on a year around basis to a height of at least six (6) feet. The open side of the enclosure shall not face any street or the front yard of any abutting property.

### **7.33 Zoning Standards for Placement of Structures**

These standards are adopted for the purposes of reducing the impact of development on tillable farmland, for limiting rural/urban conflict, for preserving the rural character of the County, for protecting natural resources and for protecting the investment made in farm related infrastructure. These standards apply in the A-160, A-80 and A-40 primary zoning districts and in the Natural Resource Conservation Design Overlay but do not apply to tracts ten (10) acres or less in size created prior to January 27, 2005.

#### **7.33.1 Standards for Agricultural Zoning Districts**

Structures that are placed on lots consistent with the provisions of *Section 9 of this Ordinance* and that are located in an agricultural zoning district, but not located within a Natural Resource Conservation Design Overlay, must comply with the following standards:

- A. A conditional use permit, subject to the standards of *Section 4.8 of this Ordinance*, is required for proposed residential dwellings, residential accessory structures and agricultural accessory structures, in those instances where all of the land being proposed to be built upon has a LESA score of sixty five (65) or more, or for an expansion of a building

envelope previously designed under the provisions of *Section 7.33.1 C of this Ordinance*, unless one of the following conditions are met:

- (1) the proposed residential dwelling, residential accessory structure or agricultural accessory structure will be located wholly or partly within one hundred fifty (150) feet of an existing structure on the parcel on which the residential dwelling, residential accessory structure or agricultural accessory structure is being proposed; or
- (2) after evaluating site conditions, the Department issues a finding of fact that the location of the proposed structure will have no or minimal impact upon the underlying tillable farmland and a building envelope is designated that is in conformance with the building envelope standards of *Section 7.33.1C of this Ordinance*; or
- (3) the proposed structure is within a Natural Resource Overlay, as described in *Section 10.3 of this Ordinance*.

**B. Exemptions from Conditional Use Permit.** The following do not require a Conditional Use Permit:

- (1) Lots that have been platted pursuant to *Stearns County Ordinance Number 230; or successor Ordinance*;
- (2) Replacement structures are exempt.

**C. Delineated building envelope required when no existing buildings on the parcel.** Each residential dwelling unit and all accessory structures and uses proposed on a parcel that does not have any buildings must be located within a delineated building envelope on the parcel. Parcels with a LESA score of less than sixty-five (65) are not subject to a Conditional Use Permit but must identify a building envelope. See *Appendix E of this Ordinance* for an illustration of this requirement. The building envelope must be consistent with the following standards:

- (1) Residential dwelling units, accessory structures and driveways shall be located to avoid impacts on agricultural infrastructure, tillable farmland, highly productive soils and shall be sited on a parcel in a manner which minimizes the amount of productive agricultural and forest land which is converted to the proposed use.
- (2) The location of the residential dwelling unit, accessory structure and driveway shall be buffered from adjacent agricultural lands and infrastructure by means of distance, topography, vegetative screening or other measures as approved by the Director and/or the Board
- (3) Tree removal, impact on wetlands, storm water drainage, erosion risk and impact on adjoining land uses shall be mitigated to have the least amount of impact on these resources. The building envelope shall not be larger than two (2) acres where the primary use is residential or other non-agricultural use. Where the primary use is agricultural, building envelopes can exceed two (2) acres.

### **7.33.2 Standards for Natural Resource Conservation Design Overlay**

Structures that are placed on lots consistent with the provisions of *Section 9 of*

*this Ordinance* and that are located within a Natural Resource Conservation Design Overlay, must comply with the following standards:

- A. A conditional use permit, subject to the standards of *Section 4.8 of this Ordinance*, is required for proposed residential dwellings, residential accessory structures and agricultural accessory structures in those instances where the land being proposed to be built upon is located within a Natural Resource Conservation Design Overlay, or for an expansion of a building envelope previously designed under the provisions of *Section 7.33.2 C of this Ordinance*, unless one of the following conditions are met:
  - (1) the proposed residential dwelling, residential accessory structure or agricultural accessory structure will be located wholly or partly within one hundred fifty (150) feet of an existing structure on the parcel on which the residential dwelling, residential accessory structure or agricultural accessory structure is being proposed; or
  - (2) after evaluating site conditions, the Department issues a finding of fact that the location of the proposed structure will have no or minimal impact on the priority natural resources identified in the Township natural resource overlay plan and will avoid fragmentation of natural areas and wildlife habitat on the building lot and adjacent parcels and a building envelope is designated that is in conformance with the building envelope standards of *Section 7.33.2 C of this Ordinance*
- B. **Exemptions from Conditional Use Permit.** The following do not require a conditional use permit:
  - (1) Replacement structures are exempt
- C. **Building Envelope Required.** A building envelope must be delineated that is in conformance with the building envelope standards of *Section 7.33.2E of this Ordinance* for all proposed residential dwellings, residential accessory structures and agricultural accessory structures.
- D. **Exemption.** No new building envelope is required under the following circumstances:
  - (1) The proposed building is a residential accessory structure or agricultural accessory structure and will be located wholly or partly within one hundred fifty (150) feet of an existing structure on the parcel on which the residential accessory structure or agricultural accessory structure is being proposed; or
  - (2) A building envelope was previously approved under the natural resource conservation design subdivision standards of *Section 7.6 of this Ordinance*.
- E. **Delineated building envelope standards.** Each proposed residential dwelling unit and all accessory structures and uses must be located within a delineated building envelope on the parcel. See *Appendix E of this Ordinance* for an illustration of this requirement. The building envelope must be consistent with the following natural resource protection standards.
  - (1) **Location of building envelope.** The building envelope and all residential dwelling units, accessory structures and driveways shall be located to avoid impacts on priority natural resources identified in the Township natural resource overlay plan and to avoid fragmentation of

natural areas and wildlife habitat on the building lot and adjacent parcels. The building envelope shall not be larger than two (2) acres where the primary use is residential or other non-agricultural use. Where the primary use is agricultural, building envelopes can exceed two (2) acres. Considerations for placing the building envelope shall include the following:

- (a) Protecting the lot's natural vegetative covering, including trees, native grassland, meadows or wetlands;
  - (b) Protecting County Biological Survey Sites or other natural habitat designation by the Township, County or DNR;
  - (c) Avoiding shore and bluff impact zones;
  - (d) Limiting ground disturbances on steep slopes.
- (2) **Proximity to existing infrastructure.** The proposed use shall be located in close proximity to existing structures, roads and infrastructure whenever possible and appropriate.
  - (3) **New Infrastructure.** Roads, wastewater treatment systems, electric and communications lines and other infrastructure shall be located to be consistent with the Township's natural resource overlay plan.
  - (4) **Visual impacts.** Locating the residential dwelling unit, accessory structures and driveways within the building envelope shall incorporate existing visual buffers or incorporate new landscaping to maintain rural character and natural views from public roads or public vantage points.
  - (5) **Mitigation of impacts.** Mitigation standards and priorities identified in the Township's natural resource overlay plan and all zoning or performance standards shall guide mitigation requirements. Mitigation is required for: tree removal; impact on wetlands, storm water drainage and infiltration and shoreland areas; erosion risk; fragmentation of wildlife habitat; impact to County Biological Survey sites. Impact on adjoining land uses shall be mitigated to have the least amount of impact on these resources.
  - (6) **Agricultural resources.** In areas with an agricultural base zoning district, the building envelope shall avoid agricultural infrastructure, tillable farmland, highly productive soils and shall be sited on a parcel in a manner which minimizes the amount of productive agricultural land which is converted to the proposed use. The Department shall grant an exemption to this requirement when, after evaluating site conditions, the Department determines that natural resource protection requires the use of productive agricultural lands for the building envelope.

## **SECTION 8            GENERAL ZONING DISTRICT RULES OF APPLICATION**

### **8.1    Establishment of Zoning Districts**

The zoning districts shall apply as designated on the Zoning Map or as defined within this Ordinance. Two types of zoning districts are utilized. All land under the jurisdiction of this Ordinance shall be designated as lying within one, and only one, primary zoning district. In addition, one or more overlay districts may apply.

#### **PRIMARY DISTRICTS**

A-160	Agricultural District A-160
A-80	Agricultural District A-80
A-40	Agricultural District A-40
T-20	Transition District T-20 (Closed)
R-20	Residential District R-20 (Closed)
R-10	Residential District R-10
R-5	Residential District R-5
RT	Rural Townsite
R-1	Residential District R-1
C	Commercial District
I	Industrial District
EE	Educational/Ecclesiastical District
SR	Scenic River District
RMH	Residential Manufactured Home District
UE	Urban Expansion District

#### **OVERLAY DISTRICTS**

FP	Floodplain
S	Shoreland
CD	Conservation Design
AP	Airport

### **8.2    Official Zoning Map**

The locations and boundaries of the primary districts established by this Ordinance are set forth on the zoning maps which are hereby incorporated by reference as though a part of this Ordinance. It shall be the responsibility of the Director to maintain and update the zoning maps and any amendments thereto.

### **8.3    District Regulations**

#### **8.3.1    Application of Standards**

Unless specified otherwise in this Ordinance, when one or more zoning district standards are in conflict, then the more restrictive standard shall apply.

**8.3.2 Appeal of District Boundary**

Appeals from the Department's determination of the exact location of district boundary lines shall be heard by the Board of Adjustment.

**8.3.3 Closed Districts**

No request for rezoning into closed districts shall be allowed. The R-20 and T-20 are closed districts.

**8.3.4 Prohibited Uses**

Whenever, in any zoning district, a use is neither specifically permitted nor prohibited, the use shall be prohibited.

**8.3.5 Riparian Lake and River Lots**

In instances where the primary zoning district lot size and width requirements are more restrictive than the minimum lot size and width requirements contained in *Section 10.2.8 of this Ordinance*, then the less restrictive standard shall apply, provided the lot is riparian to the applicable lake or river.

**8.3.6 Zoning Upon Detachment**

Any tract of land that is part of a statutory or charter city shall be zoned A-40 District if said tract of land is detached and becomes part of an adjoining township at any time on or after the effective date of this Ordinance.



## **SECTION 9        PRIMARY DISTRICT PROVISIONS**

### **9.1    Agricultural District A-160 (A-160 District)**

#### **9.1.1    Purpose**

The purpose of this district is to maintain and conserve agricultural lands which are historically valuable for crop and animal production, pastureland and natural habitat for wildlife within the Comprehensive Plan Agricultural/Limited Development land use area. The A-160 district highly restricts residential encroachment by restricting the location and density of residential dwellings to one per one hundred sixty (160) acres. The A-160 district meets the following Stearns County Comprehensive Plan goals:

- A. Preserve highly valued farmland for agricultural pursuits (Land Use Plan Goal 1, Objective 2).
- B. Protect agricultural soils and other agricultural resources by regulating non-agricultural land uses in areas with agricultural soils (Natural Resources Plan, Goal 3, Objective 1).
- C. Maintain suitable boundaries for urban, rural residential and agricultural areas (Land Use Plan Goal 2, Objective 1).
- D. Create land use regulation that protects and encourages the expansion of the County's economic diversity (by) . . . reaffirming the A-80 and A-160 zoning districts in those townships committed to agricultural protection (Economic Development Policy 1).

#### **9.1.2    Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural operations
- B. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- C. Essential services, transmission services, utility substations
- D. Family day care
- E. Group family day care
- F. Licensed nonresidential programs
- G. Licensed residential programs
- H. Mining- administrative
- I. Public and private forest and game management areas
- J. Public parks and trails
- K. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- L. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- M. Wind Energy Conversion Systems (less than or equal to 40KW)

**9.1.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots permitted by, and subject to, the provisions of *Section 6.7 of this Ordinance*
- B. Bed and breakfast inns
- C. Cemeteries
- D. Greenhouses and nurseries
- E. Government administrative and service buildings
- F. Home extended businesses
- G. Home occupations
- H. One (1) temporary single family dwelling unit accessory to an agricultural operation
- I. Outdoor recreational facilities
- J. Storage facilities, accessory agricultural building
- K. Temporary use sites in licensed resorts and campgrounds
- L. Temporary uses/special events

**9.1.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory agricultural buildings to the conditions of *Sections 6.1 and 7.33 of this Ordinance*
- B. In-vessel composting facility and mortality incinerator
- C. Kennels – private (4 – 10 animals)
- D. Outdoor sales lot – accessory to motor vehicle repair
- E. Outdoor storage
- F. Residential accessory buildings subject to the conditions of *Sections 6.2 and 7.33 of this Ordinance*
- G. Seasonal produce sales stands
- H. Solar energy systems – accessory
- I. Structures related to public airports
- J. Swimming pools

**9.1.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory structures subject to the conditions of *Sections 6.1, 6.2 and 7.33 of this Ordinance*
- B. Agriculturally oriented businesses
- C. Animal feedlots subject to the provisions of *Section 6.7 of this Ordinance*
- D. Antennae subject to the conditions of *Section 7.28 of this Ordinance*

- E. Aquaculture
- F. Biofuels plants
- G. Churches
- H. Community buildings
- I. Concrete (ready mix) or asphalt mixing facility, permanent
- J. Contractors yard
- K. Hunting clubs, shooting preserves and shooting ranges
- L. Kennels – commercial, breeding, boarding
- M. Kennels – private (more than 10 animals)
- N. Limited rural businesses
- O. Motor vehicle repair, accessory
- P. Outdoor paintball courses
- Q. Private airstrips
- R. Schools- public or private
- S. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- T. Solar farms
- U. Truck terminal – small
- V. Transmission services
- W. Wastewater treatment facilities
- X. Wind Energy Conversion Systems (greater than 40KW)

#### **9.1.6 Interim Uses**

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Concrete (ready mix) or asphalt mixing facility, temporary
- B. Meteorological towers
- C. Migrant and/or seasonal worker housing
- D. Mining
- E. Secondary single family residential dwelling unit that is to be located in the existing farmyard
- F. Temporary single family residential dwelling unit for supportive care
- G. Vacation/private home rental

#### **9.1.7 Residential Density Requirements**

- A. **Maximum density.** Only one (1) single family residential dwelling unit shall be allowed per one hundred sixty (160) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one one hundred sixty (160) acre tract to another tract within a contiguous proposed development area (contiguous exclusive of public rights-of-way). The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential

development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years. The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.

- D. **Inter-township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Transfers between agricultural districts.** In instances where a property owner has ownership of land in more than one agricultural district, the residential development rights may be transferred to either district.
- F. **Transfers between agricultural and residential districts.** In instances where a property owner has ownership of land in the A-160 district and land in any one of the residential districts, the residential development rights may only be transferred to the residential district.

#### 9.1.8 Standards for Determining Permitted Residential Dwelling Sites

- A. Certain parcels of record recorded under separate deed and not containing one hundred sixty (160) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. An eligible one hundred sixty (160) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
  - (1) The tract contains one hundred sixty (160) acres more or less and is described for example, as the NW ¼, according to the Government Land Office survey grid system; or

- (2) The tract contains 160 acres or more and is described by metes and bounds description. The right-of-way of any public road adjacent to and included in the description of said tract may be used for the one hundred sixty (160) acres calculation.
- D. Determining eligibility for a residential dwelling site on a parcel or parcels within the A-160 district shall be as follows:
  - (1) The property owner's total acreage owned on the parcel or parcels all within the A-160 district, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (2) One hundred sixty (160) acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (3) The results from 1 and 2 above shall be divided by one hundred sixty (160) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.1.8 of this Ordinance*.
- F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a one hundred sixty (160) acre equivalent land area which is defined as one hundred sixty (160) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.
- G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.
- H. **Combining eligible density from multiple parcels.** The intent of the A-160 District is to restrict residential density to an average of one residential dwelling per one hundred sixty (160) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into a cluster development, the transfer of residential development from one one hundred sixty (160) acre tract to another

contiguous one hundred sixty (160) acre tract shall be allowed subject to the following:

- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
- (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the cluster development standards of *Section 7.4 of this Ordinance*.
- (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the one hundred sixty (160) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.1.9 Density Bonus**

No density bonus is allowed in the A-160 district except under the *provisions of Section 7.6 and 10.2 of this Ordinance*.

#### **9.1.10 Lot Requirements**

- A. A parcel of record that is determined as such pursuant to *Section 9.1.8 A or B of this Ordinance* that is less than one hundred sixty (160) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the A-160 District:
  - (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width for a single family residential dwelling shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use and setback requirements of *Section 9.1.11 of this Ordinance*, and the subsurface sewage treatment system standards of *Ordinance 422; or successor ordinance*.
  - (4) The location of any lot in the A-160 district that is to be used as a residential dwelling site shall be located so the residential dwelling can meet the animal feedlot setback provisions of *Section 6.7.5 of this Ordinance*.
- C. In the A-160 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

- D. In the A-160 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-10 zoning district shall be allowed on a lot or tract at least five (5) acres but less than ten (10) acres in area. Setbacks for the R-10 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

#### 9.1.11 Setback Requirements

The following setback requirements shall apply:

A. Minimum building setbacks:

- (1) Side 50 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

- B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.
- C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.1.11 A of this Ordinance*, shall also comply with the residential setbacks from an animal feedlot as provided in *Section 6.7.5 A of this Ordinance*.

#### 9.1.12 Height Requirements

- A. Buildings other than agricultural buildings shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

#### 9.1.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.





## **9.2 Agricultural District A-80 (A-80 District)**

### **9.2.1 Purpose**

The purpose of this district is to preserve the agricultural and rural character of land within the Comprehensive Plan Agricultural/Limited Development land use area. Agriculture is the predominate land use, however, a few single family dwellings and hobby farms exist within this district. Because of the proximity to slower growing rural areas, additional residential development may be allowed at a low density of not more than one residence per eighty (80) acres. This district minimizes land use conflicts by limiting random encroachment of nonfarm residential development into agricultural areas. The A-80 district meets the following Stearns County Comprehensive Plan goals:

- A. Preserve highly valued farmland for agricultural pursuits (Land Use Plan Goal 1, Objective 2).
- B. Protect agricultural soils and other agricultural resources by regulating non-agricultural land uses in areas with agricultural soils (Natural Resources Plan, Goal 3, Objective 1).
- C. Maintain suitable boundaries for urban, rural residential and agricultural areas (Land Use Plan Goal 2, Objective 1).
- D. Create land use regulation that protects and encourages the expansion of the County's economic diversity (by) . . . reaffirming the A-80 and A-160 zoning districts in those townships committed to agricultural protection (Economic Development Policy 1).

### **9.2.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural operations
- B. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- C. Essential services, transmission services, utility substations
- D. Family day care
- E. Group family day care
- F. Licensed nonresidential programs
- G. Licensed residential programs
- H. Mining- administrative
- I. Public and private forest and game management areas
- J. Public parks and trails
- K. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- L. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- M. Wind Energy Conversion Systems (less than or equal to 40KW)

**9.2.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots permitted by and subject to the provisions of *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Greenhouses and nurseries
- E. Government administrative and service buildings
- F. Home extended businesses
- G. Home occupations
- H. One (1) temporary single family dwelling unit accessory to an agricultural operation
- I. Outdoor recreational facilities
- J. Storage facilities, accessory agricultural building
- K. Temporary use sites in licensed resorts and campgrounds
- L. Temporary uses/special events

**9.2.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory agricultural buildings subject to the conditions of *Sections 6.1 and 7.33 of this Ordinance*
- B. Residential accessory buildings subject to the conditions of *Sections 6.2 and 7.33 of this Ordinance*
- C. In-vessel composting facility or mortality incinerator
- D. Kennels – private (4 – 10 animals)
- E. Outdoor sales lot – accessory to motor vehicle repair
- F. Outdoor storage
- G. Seasonal produce sales stands
- H. Solar energy systems – accessory
- I. Structures related to public airports
- J. Swimming pools

**9.2.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory structures subject to the conditions of *Sections 6.1, 6.2 and 7.33 of this Ordinance*
- B. Agriculturally oriented businesses
- C. Animal feedlots subject to the provisions of *Section 6.7 of this Ordinance*
- D. Antennae subject to the conditions of *Section 7.28 of this Ordinance*

- E. Aquaculture
- F. Biofuels plants
- G. Churches
- H. Community buildings
- I. Concrete (ready mix) or asphalt mixing facility, permanent
- J. Contractors yard
- K. Hunting clubs, shooting preserves and shooting ranges
- L. Kennels – commercial, breeding, boarding
- M. Kennels – private (more than 10 animals)
- N. Limited rural businesses
- O. Limited rural manufacturing
- P. Motor vehicle repair, accessory
- Q. Outdoor paintball courses
- R. Private airstrips
- S. Schools-public or private
- T. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- U. Solar farms
- V. Truck terminal – small
- W. Transmission services
- X. Wastewater treatment facilities
- Y. Wind Energy Conversion Systems (greater than 40KW)

#### **9.2.6 Interim Use Permits**

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Concrete (ready mix) or asphalt mixing facility, temporary
- B. Meteorological towers
- C. Migrant and/or seasonal worker housing
- D. Mining
- E. Secondary single family residential dwelling unit that is to be located in the existing farmyard
- F. Temporary single family residential dwelling unit for supportive care
- G. Vacation/private home rental

#### **9.2.7 Residential Density Requirements**

- A. **Maximum density.** Only one (1) single family residential dwelling unit shall be allowed per eighty (80) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one eighty (80) acre tract to another tract within a contiguous proposed development area (contiguous exclusive of public rights-of-way). The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two or more residential dwelling sites.

- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years. The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.
- D. **Inter-township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Transfers between agricultural districts.** In instances where a property owner has ownership of land in more than one agricultural district, the residential development rights may be transferred to either district.
- F. **Transfers between agricultural and residential districts.** In instances where a property owner has ownership of land in the A-80 district and land in any one of the residential districts, the residential development rights may only be transferred to the residential district.

#### 9.2.8 Standards for Determining Permitted Residential Dwelling Sites

- A. **Parcels of record.** Certain parcels of record recorded under separate deed and not containing eighty (80) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. **Residential dwelling site eligibility.** An eligible eighty (80) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:

- (1) The tract contains eighty (80) acres more or less and is described for example, as the NW  $\frac{1}{4}$ , according to the Government Land Office survey grid system; or
  - (2) The tract contains eighty (80) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the 80 acres calculation.
- D. Determining eligibility for a residential dwelling site on a parcel or parcels within the A-80 District shall be as follows:
- (1) The property owner's total acreage owned on the parcel or parcels all within the A-80 District, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (2) Eighty (80) acres for each existing Residential Dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (3) The results from 1 and 2 above shall be divided by eighty (80) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.2.8 of this Ordinance*.
- F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a Residential dwelling site shall execute a Declaration of Restriction for an eighty (80) acre equivalent land area which is defined as eighty (80) acres less the acreage of the Residential Dwelling Site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.
- G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.
- H. **Combining eligible density from multiple parcels.** The intent of the A-80 district is to restrict residential density to an average of one residential dwelling per eighty (80) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into

a cluster development, the transfer of residential development from one eighty (80) acre tract to another contiguous eighty (80) acre tract shall be allowed subject to the following:

- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
- (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the Cluster Development Standards of *Section 7.4 of this Ordinance*.
- (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the eighty (80) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.2.9 Density Bonus**

No density bonus is allowed in the A-80 district except under the *provisions of Section 7.6 and 10.2 of this Ordinance*.

#### **9.2.10 Lot Requirements**

- A. A parcel of record that is determined as such pursuant to *Section 9.2.8 A or B of this Ordinance*, that is less than eighty (80) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the A-80 District:
  - (1) The minimum lot size for a Single Family Residential Dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use and setback requirements of *Section 9.2.11 of this Ordinance*; and the subsurface sewage treatment system standards of *Ordinance 422; or successor ordinance*.
  - (4) The location of any lot in the A-80 district that is to be used as a residential dwelling site shall be located so that the residential dwelling can meet the animal feedlot setback provisions of *Section 6.7.5 of this Ordinance*.
- C. In the A-80 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.
- D. In the A-80 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-

10 zoning district shall be allowed on a lot or tract at least five (5) acres but less than ten (10) acres in area. Setbacks for the R-10 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

### 9.2.11 Setback Requirements

The following setback requirements shall apply:

A. Minimum building setbacks

- (1) Side 50 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.

C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.2.11 A of this Ordinance*, shall also comply with the residential setbacks from an Animal Feedlot as provided in *Section 6.7.5 A of this Ordinance*.

### 9.2.12 Height Requirements

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

### 9.2.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.





### **9.3 Agricultural District A-40 (A-40 District)**

#### **9.3.1 Purpose**

The purpose of this District is to preserve the agricultural and rural character of land within the A-40 District. This district is applicable in areas where agriculture is the predominant and preferred land use, as described in the Comprehensive Plan, and agricultural protection, including crops and animal agriculture, is the foremost goal. However, the A-40 district has a secondary goal of providing flexibility not allowed in the A-80 and A-160 districts by allowing for development where agriculture has limited viability. The A-40 district is used in proximity to growing cities and areas away from cities where agricultural resources and practices are intermixed with other uses. Residential land uses are limited to a density of one residential dwelling per forty (40) acres. This district is intended to meet the following goals of the Stearns County Comprehensive Plan:

- A. Preserve highly valued farmland for agricultural pursuits (Land Use Plan Goal 1, Objective 2).
- B. Protect agricultural soils and other agricultural resources by regulating non-agricultural land uses in areas with agricultural soils (Natural Resources Plan, Goal 3, Objective 1).
- C. Maintain suitable boundaries for urban, rural residential and agricultural areas (Land Use Plan Goal 2, Objective 1).

#### **9.3.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural operations
- B. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- C. Essential services, transmission services, utility substations
- D. Family day care
- E. Group family day care
- F. Licensed nonresidential programs
- G. Licensed residential programs
- H. Mining- administrative
- I. Public and private forest and game management areas
- J. Public parks and trails
- K. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- L. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- M. Wind Energy Conversion Systems (less than or equal to 40KW)

#### **9.3.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots permitted by and subject to the provisions of *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Greenhouses and nurseries
- E. Government administrative and service buildings
- F. Home extended businesses
- G. Home occupations
- H. One (1) temporary single family dwelling unit accessory to an agricultural operation
- I. Outdoor recreational facilities
- J. Storage facilities, accessory agricultural building
- K. Temporary use sites in licensed resorts and campgrounds
- L. Temporary uses/special events

#### **9.3.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory agricultural buildings subject to the conditions of *Sections 6.1 and 7.33 of this Ordinance*
- B. Residential accessory buildings subject to the conditions of *Sections 6.2 and 7.33 of this Ordinance*
- C. In-vessel composting facility or mortality incinerator
- D. Kennels – private (4 – 10 animals)
- E. Outdoor sales lot – accessory to motor vehicle repair
- F. Outdoor Storage
- G. Seasonal produce sales stands
- H. Solar energy systems – accessory
- I. Structures related to public airports
- J. Swimming pools

#### **9.3.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory structures subject to the conditions of *Section 6.1, 6.2 and 7.33 of this Ordinance*
- B. Agriculturally oriented businesses
- C. Animal feedlots subject to the provisions of *Section 6.7 of this Ordinance*
- D. Antennae subject to the conditions of *Section 7.28 of this Ordinance*
- E. Aquaculture
- F. Biofuels plants
- G. Churches
- H. Community buildings

- I. Concrete (ready mix) or asphalt mixing facility, permanent
- J. Contractors yard
- K. Hunting clubs, shooting preserves and shooting ranges
- L. Kennels – commercial, breeding, boarding
- M. Kennels – private (more than 10 animals)
- N. Limited rural businesses
- O. Limited rural manufacturing
- P. Motor vehicle repair – accessory
- Q. Outdoor paintball courses
- R. Private airstrips
- S. Recreational vehicle parks and campgrounds
- T. Schools-public or private
- U. Single family residential dwelling unit subject to the conditions of *Section 7.33 of this Ordinance*
- V. Solar farms
- W. Truck terminal – small
- X. Transmission services
- Y. Wastewater treatment facilities
- Z. Wind Energy Conversion Systems (greater than 40KW)

#### **9.3.6 Interim Use Permits**

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Concrete (ready mix) or asphalt mixing facility, temporary
- B. Meteorological towers
- C. Migrant and/or seasonal worker housing
- D. Mining
- E. Secondary single family residential dwelling unit that is to be located in the existing farmyard
- F. Temporary single family residential dwelling unit for supportive care
- G. Vacation/private home rental

#### **9.3.7 Residential Density Requirements**

- A. **Maximum density.** Only one (1) single family residential dwelling unit shall be allowed per forty (40) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one forty (40) acre tract to another tract within a contiguous proposed development area (contiguous exclusive of public rights-of-way). The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for

a minimum of three (3) years. The cluster development standards of *Section 7.4 of this Ordinance* must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.

- D. **Inter-township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Transfers between agricultural districts.** In instances where a property owner has ownership of land in more than one agricultural district, the residential development rights may be transferred to either district.
- F. **Transfers between agricultural and residential districts.** In instances where a property owner has ownership of land in the A-40 district and land in any one of the residential districts, the residential development rights may only be transferred to the residential district.

### 9.3.8 Standards for Determining Permitted Residential Dwelling Sites

- A. **Parcels of Record.** Certain parcels of record recorded under separate deed and not containing forty (40) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. **Residential dwelling site eligibility.** An eligible forty (40) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
  - (1) The tract contains forty (40) acres more or less and is described for example, as the NW  $\frac{1}{4}$ , according to the Government Land Office survey grid system; or

- (2) The tract is described as an entire Government Lot and contains at least thirty five (35) acres.
- (3) The tract contains forty (40) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the forty (40) acres calculation.

D. **Density calculation.** Determining eligibility for a residential dwelling site on a parcel or parcels within the A-40 district shall be as follows:

- (1) The property owner's total acreage owned on the parcel or parcels all within the A-40 district, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
- (2) Forty (40) acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
- (3) The results from 1 and 2 above shall be divided by forty (40) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.

E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed subject to the minimum lot size requirements for non-residential lots and the provisions of this Section regulating subdivisions for the purpose of attachment to residential lots.. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.3.8 of this Ordinance*.

F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a forty (40) acre equivalent land area which is defined as forty (40) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.

G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.

H. **Combining eligible density from multiple parcels.** The intent of the A-40 district is to restrict residential density to an average of one residential

dwelling per forty (40) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into a cluster development, the transfer of residential development from one forty (40) acre tract to another contiguous forty (40) acre tract shall be allowed subject to the following:

- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
- (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the Cluster Development Standards of *Section 7.4 of this Ordinance*.
- (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the forty (40) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

### **9.3.9 Density Bonus**

Density bonuses in the A-40 district are allowed only under the provisions of *Sections 7.5, 7.6, and 10.2 of this Ordinance*.

### **9.3.10 Lot Requirements**

- A. A parcel of record that is determined as such pursuant to *Section 9.3.8 A or B of this Ordinance* that is less than forty (40) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the A-40 District:
  - (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use, setback requirements of *Section 9.3.11 of this Ordinance*, and the sewage treatment system standards of *Ordinance 422; or successor ordinance*.
  - (4) The location of any lot in the A-40 district that is to be used as a residential dwelling site shall be located so that the residential dwelling can meet the animal feedlot setback provisions of *Section 6.7.5 of this Ordinance*.
- C. In the A-40 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

- D. In the A-40 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-10 zoning district shall be allowed on a lot or tract at least five (5) acres but less than ten (10) acres in area. Setbacks for the R-10 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

### 9.3.11 Setback Requirements

The following setback requirements shall apply:

#### A. Minimum building setbacks

- (1) Side 50 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

- B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.
- C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.3.11A of this Ordinance*, shall also comply with the residential setbacks from an animal feedlot as provided in *Section 6.7.5 A of this Ordinance*.

### 9.3.12 Height Requirements

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

### 9.3.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.





## **9.4 Transition District T-20 (T-20 District)**

### **9.4.1 Purpose**

This district was created to provide limited residential development opportunity on land that is not highly valued farmland and is located well beyond any growth or expansion area of a municipality. The T-20 district is now designated a closed district, with no additional land allowed to be rezoned as T-20. The County encourages landowners and township governments to consider requesting a rezoning of existing T-20 areas to A-40. Closing the district implements the following Stearns County Comprehensive Plan goals:

- A. Manage the impacts of growth and development on the County's rural character (Agriculture Goal 3).
  - (1) Discourage incompatible land uses through effective land use controls (Objective 1).
- B. Consider Transitions from Large-Lot Zoning. The County will consider replacing T-20 and R-20 districts with a variety of conservation design options (i.e., the A-40 or Avon Hills options) or with other zoning districts that will better protect agricultural and natural resources (Implementation Policy 8).

### **9.4.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services, transmission services, and utility substations
- C. Family day care
- D. Group family day care
- E. Licensed nonresidential programs
- F. Licensed residential programs
- G. Limited agricultural uses
- H. Mining- administrative
- I. Public and private forest and game management areas
- J. Public parks and trails
- K. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- L. Single family residential dwelling unit
- M. Wind Energy Conversion Systems (less than or equal to 40KW)

### **9.4.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Government administrative and service buildings
- E. Greenhouses and nurseries

- F. Home extended businesses
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resorts and campgrounds
- J. Temporary uses/special events

#### **9.4.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural buildings that are accessory to an agricultural operation
- B. In-vessel composting facility or mortality incinerator
- C. Residential accessory buildings
- D. Seasonal produce sales stands
- E. Solar energy systems – accessory
- F. Swimming pools

#### **9.4.5 Conditional Uses**

The following uses may be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches
- C. Community buildings
- D. Contractors yard
- E. Golf courses, golf club houses, country clubs, public swimming pools
- F. Limited rural businesses
- G. Recreational vehicle parks and campgrounds
- H. Schools – public or private
- I. Transmission services
- J. Wastewater treatment facilities
- K. Wind Energy Conversion Systems (greater than 40KW)

#### **9.4.6 Interim Uses**

The following uses may be allowed as an interim use following the procedure set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots. New animal feedlots with less than 10 animal units in shoreland
- B. Animal feedlots. Re-established animal feedlots in shoreland
- C. Concrete (ready mix) or asphalt mixing facility, temporary
- D. Meteorological towers
- E. Mining
- F. Temporary single family residential dwelling unit for supportive care
- G. Vacation/private home rental

#### **9.4.7 Residential Density Requirements**

- A. **Density standard.** Except as otherwise provided in *Section 9.4.8 A or B of this Ordinance*, only one (1) single family residential dwelling unit shall be allowed per twenty (20) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one twenty (20) acre tract to another contiguous tract.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years.
- D. **Inter-Township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Inter-district transfers.** In instances where a property owner has ownership of land in more than one zoning district, residential development rights from the T-20 District may only be transferred to a district which permits a higher residential density.

#### **9.4.8 Standards for Determining Permitted Residential Dwelling Sites**

- A. **Parcels of Record.** Certain parcels of record recorded under separate deed and not containing twenty (20) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.

- C. **Residential dwelling site eligibility.** An eligible twenty (20) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
- (1) The tract contains twenty (20) acres more or less and is described for example, as the NW  $\frac{1}{4}$ , according to the Government Land Office survey grid system; or
  - (2) The tract contains twenty (20) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the twenty (20) acres calculation.
- D. **Density calculation.** Determining eligibility for a residential dwelling site on a parcel or parcels within the T-20 district shall be as follows:
- (1) The property owner's total acreage owned on the parcel or parcels all within the T-20 district, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (2) Twenty (20) acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (3) The results from 1 and 2 above shall be divided by twenty (20) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.4.8 of this Ordinance*.
- F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a twenty (20) acre equivalent land area which is defined as twenty (20) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.
- G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.
- H. **Combining eligible density from multiple parcels.** The intent of the T-20 district is to restrict residential density to an average of one residential

dwelling per twenty (20) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into a cluster development, the transfer of residential development from one twenty (20) acre tract to another contiguous twenty (20) acre tract shall be allowed subject to the following:

- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
- (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the cluster development standards of *Section 7.4 of this Ordinance*.
- (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the twenty (20) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.4.9 Density Bonus**

No density bonuses are allowed in the T-20 District.

#### **9.4.10 Lot Requirements**

- A. A Parcel of Record that is determined as such pursuant to *Section 9.4.8 A or B of this Ordinance* that is less than twenty (20) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots created in the T-20 district:
  - (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of *this Ordinance* for the proposed use and setback requirements of *Section 9.4.11 of this Ordinance*, and the sewage treatment system standards of *Ordinance 422; or successor ordinance*.
  - (4) The location of any lot in the T-20 district that is to be used as a residential dwelling site shall be located so that the residential dwelling can meet the animal feedlot setback provisions of *Section 6.7.5 of this Ordinance* when the animal feedlot is located in an agricultural zoning district.
  - (5) Lots with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.
- C. In the T-20 zoning district, except animal feedlots, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

- D. In the T-20 zoning district, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-10 zoning district shall be allowed on a lot or tract at least five (5) acres but less than ten (10) acres in area. Setbacks for the R-10 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

#### 9.4.11 Setback Requirements

The following setback requirements shall apply:

##### A. Minimum Building Setbacks

- (1) Side 20 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
  - (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.
- B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.
- C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.4.11 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

#### 9.4.12 Height Requirements

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

#### 9.4.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.

## **9.5 Residential District R-20 (R-20 District)**

### **9.5.1 Purpose**

This district was created to provide limited residential development opportunity on land that is not highly valued farmland and is land that is located well beyond any growth or expansion area of a municipality. New animal feedlots and all expansions or modifications to existing feedlots shall be limited. The R-20 district is now designated a closed district, with no additional land allowed to be rezoned as R-20. The County encourages landowners and township governments to consider requesting a rezoning of existing R-20 areas to A-40. Closing the district implements the following Stearns County Comprehensive Plan goals:

- A. Manage the impacts of growth and development on the County's rural character (Agriculture Goal 3).
  - (1) Discourage incompatible land uses through effective land use controls (Objective 1).
- B. Consider Transitions from Large-Lot Zoning. The County will consider replacing T-20 and R-20 districts with a variety of conservation design options (i.e., the A-40 or Avon Hills options) or with other zoning districts that will better protect agricultural and natural resources (Implementation Policy 8).

### **9.5.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential Services, Transmission Services and Utility Substations
- C. Family day care
- D. Group family day care
- E. Licensed nonresidential programs
- F. Licensed residential programs
- G. Limited agricultural uses
- H. Public and private forest and game management areas
- I. Public parks and trails
- J. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- K. Single family residential dwelling unit
- L. Wind Energy Conversion Systems (less than 6KW)

### **9.5.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to limitations of the animal density regulations of *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries

- D. Government administrative and service buildings
- E. Greenhouses and nurseries
- F. Home extended businesses
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resorts and campgrounds
- J. Temporary uses/special events

#### **9.5.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural buildings that are accessory to a limited agricultural use
- B. Residential accessory buildings
- C. Seasonal produce sales stands
- D. Solar energy systems – accessory
- E. Swimming pools

#### **9.5.5 Conditional Uses**

The following uses may be allowed as a conditional use following the procedure set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches
- C. Community buildings
- D. Golf courses, golf club houses, country clubs, public swimming pools
- E. Limited rural businesses
- F. Recreational vehicle parks and campgrounds
- G. Schools – public or private
- H. Transmission services
- I. Wastewater treatment facilities
- J. Wind Energy Conversion Systems (greater than 6KW and less than 40KW)

#### **9.5.6 Interim Uses**

The following uses may be allowed as an interim use following the procedure set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots. New animal feedlots with less than 10 animal units in shoreland
- B. Animal feedlots. Re-established animal feedlots in shoreland
- C. Concrete (ready mix) or asphalt mixing facility, temporary
- D. Temporary single family residential dwelling unit for supportive care
- E. Vacation/private home rental



**9.5.7 Residential Density Requirements**

- A. **Density standard.** Except as otherwise provided in *Section 9.5.8 A or B of this Ordinance*, only one (1) single family residential dwelling unit shall be allowed per twenty (20) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one twenty (20) acre tract to another contiguous tract.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years.
- D. **Inter-Township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Inter-district transfers.** In instances where a property owner has ownership of land in more than one zoning district, residential development rights from the R-20 district may only be transferred to a district which permits a higher residential density.

**9.5.8 Standards for Determining Permitted Residential Dwelling Sites**

- A. **Parcels of Record.** Certain parcels of record recorded under separate deed and not containing twenty (20) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. **Residential dwelling site eligibility.** An eligible twenty (20) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:

- (1) The tract contains twenty (20) acres more or less and is described for example, as the NW ¼, according to the Government Land Office survey grid system; or
- (2) The tract contains twenty (20) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the twenty (20) acres calculation.

**D. Density calculation.** Determining eligibility for a residential dwelling site on a parcel or parcels within the R-20 District shall be as follows:

- (1) The property owner's total acreage owned on the parcel or parcels all within the R-20 District, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
- (2) Twenty (20) acres for each existing Residential Dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
- (3) The results from 1 and 2 above shall be divided by twenty (20) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.

**E. Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.5.8 of this Ordinance*.

**F. Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a twenty (20) acre equivalent land area which is defined as twenty (20) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.

**G. Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.

**H. Combining eligible density from multiple parcels.** The intent of the R-20 district is to restrict residential density to an average of one residential dwelling per twenty (20) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into

a cluster development, the transfer of residential development from one twenty (20) acre tract to another contiguous twenty (20) acre tract shall be allowed subject to the following:

- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
- (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the cluster development standards of *Section 7.4 of this Ordinance*.
- (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the twenty (20) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.5.9 Density Bonus**

No density bonuses are allowed in the R-20 district.

#### **9.5.10 Lot Requirements**

- A. A Parcel of Record that is determined as such pursuant to *Section 9.5.8 A or B of this Ordinance* that is less than twenty (20) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the R-20 district:
  - (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use and setback requirements of *Section 9.5.11 of this Ordinance*, and the sewage treatment system standards of *Ordinance 422; or successor ordinance*. Lots or tracts with an animal feedlot shall meet the standards as provided in *Section 6.7 of this Ordinance* when the animal feedlot is located in an agricultural zoning district.
  - (4) The location of any lot in the R-20 district that is to be used as a residential dwelling site shall be located so that the residential dwelling can meet the animal feedlot setback provisions of *Sections 6.7.5 and 7.16 of this Ordinance*.
- C. In the R-20 zoning district, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

- D. In the R-20 zoning district, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-10 zoning district shall be allowed on a lot or tract at least five (5) acres but less than ten (10) acres in area. Setbacks for the R-10 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

#### 9.5.11 Setback Requirements

The following setback requirements shall apply:

##### A. Minimum Building Setbacks

- (1) Side 20 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
  - (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.
- B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.
- C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.5.11 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

#### 9.5.12 Height Requirements

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

#### 9.5.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.

## **9.6 Residential District R-10 (R-10 District)**

### **9.6.1 Purpose**

The purpose of this district is to provide limited residential development opportunity on land that is neither highly valued farmland nor is land located within any growth or expansion area of a municipality. Land within this district is generally closer to a municipal growth area than land within the R-20 district. The R-10 district is located adjacent to agricultural areas and efforts to minimize land use conflict, such as restricting new animal feedlots, shall be a primary decision tool in approving development. The R-10 district meets the following Stearns County Comprehensive Plan goals:

- A. Minimize land use conflict between agriculture and other and uses (Goal 2 Agriculture).
  - (1) Maintain suitable boundaries for urban, rural residential and agricultural areas (Objective 1).
- B. Manage the impacts of growth and development on the County's rural character (Agriculture, Goal 3).
  - (1) Discourage incompatible land uses through effective land use controls (Objective 1).
  - (2) Identify appropriate areas for commercial, industrial, and non-farm rural residential developments (Objective 2).
- C. Provide a variety of residential opportunities (Growth and Development, Goal 6).
  - (1) Provide a diversity of housing prices and styles, meeting the needs of residents of different ages, incomes and lifestyles (Objective 1).

### **9.6.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services, transmission services and utility substations
- C. Family day care
- D. Group family day care
- E. licensed nonresidential programs
- F. licensed residential programs
- G. Limited agricultural uses
- H. Public and private forest and game management areas
- I. Public parks and trails
- J. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- K. Single family residential dwelling units
- L. Wind energy conversion system (less than 6 KW)

**9.6.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Government administrative and service buildings
- E. Greenhouses and nurseries
- F. Home extended businesses
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resorts and campgrounds
- J. Temporary uses/special events

**9.6.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural buildings that are accessory to a limited agricultural use
- B. Residential accessory buildings
- C. Seasonal produce sales stands
- D. Solar energy systems – accessory
- E. Swimming pools

**9.6.5 Conditional Uses**

The following uses may be allowed as a conditional uses following the procedure set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches
- C. Community buildings
- D. Golf courses, golf club houses, country clubs, public swimming pools
- E. Limited rural businesses
- F. Recreational vehicle parks and campgrounds
- G. Schools – public and private
- H. Transmission services
- I. Wastewater treatment facilities
- J. Wind Energy Conversion Systems (6KW-40KW)

**9.6.6 Interim Uses**

The following uses may be allowed as an interim use following the procedure set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots. New animal feedlots with less than 10 animal units in shoreland
- B. Animal feedlots. Re-established animal feedlots in shoreland
- C. Concrete (ready mix) or asphalt mixing facility, temporary
- D. Temporary single family residential dwelling unit for supportive care
- E. Vacation/private home rental

#### **9.6.7 Residential Density Requirements**

- A. **Density standard.** Except as otherwise provided in *Section 9.6.8 A or B of this Ordinance*, only one (1) single family residential dwelling unit shall be allowed per ten (10) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one 10 acre tract to another contiguous tract.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years.
- D. **Inter-Township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Inter-district transfers.** In instances where a property owner has ownership of land in more than one zoning district, residential development rights from the R-10 district may only be transferred to a district which permits a higher residential density.

#### **9.6.8 Standards for Determining Permitted Residential Dwelling Sites**

- A. **Parcels of Record.** Certain parcels of record recorded under separate deed and not containing ten (10) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or

- (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. **Residential dwelling site eligibility.** An eligible ten (10) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
  - (1) The tract contains ten (10) acres more or less and is described for example, as the NW  $\frac{1}{4}$ , according to the Government Land Office survey grid system; or
  - (2) The tract contains ten (10) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the ten (10) acres calculation.
- D. **Density calculation.** Determining eligibility for a residential dwelling site on a parcel or parcels within the R-10 district shall be as follows:
  - (1) The property owner's total acreage owned on the parcel or parcels all within the R-10 district, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (2) Ten (10) acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (3) The results from 1 and 2 above shall be divided by ten (10) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.6.8 of this Ordinance*.
- F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a ten (10) acre equivalent land area which is defined as ten (10) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.



- G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.
- H. **Combining eligible density from multiple parcels.** The intent of the R-10 district is to restrict residential density to an average of one residential dwelling per ten (10) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into a cluster development, the transfer of residential development from one ten (10) acre tract to another contiguous ten (10) acre tract shall be allowed subject to the following:
- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
  - (2) When the cumulative number of Residential Dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the cluster development standards of *Section 7.4 of this Ordinance*.
  - (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the ten (10) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.6.9 Density Bonus**

No density bonuses are allowed in the R-10 district, except as allowed under the provisions of *Sections 7.4, 7.6 and 10.2 of this Ordinance*.

#### **9.6.10 Lot Requirements**

- A. A parcel of record that is determined as such pursuant to *Section 9.6.8 A or B of this Ordinance* that is less than ten (10) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the R-10 district:
- (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use and setback requirements of *Section 9.6.11 of this Ordinance*, and the sewage treatment system standards of *Ordinance 422; or successor ordinance*. Lots or tracts with an animal feedlot shall meet the standards as provided in *Section 6.7 of this Ordinance* when the animal feedlot is located in an agricultural zoning district.
  - (4) The location of any lot in the R-10 district that is to be used as a residential dwelling site shall be located so that the residential dwelling

can meet the animal feedlot setback provisions of *Sections 6.7.5 and 7.16 of this Ordinance*.

- C. In the R-10 zoning district, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

### 9.6.11 Setback Requirements

The following setbacks shall apply:

#### A. Minimum Building Setbacks

- (1) Side 20 feet
- (2) Rear 50 feet
- (3) Front

Road Classification	Setback from Road Centerline*	Setback from Road Right-of-Way (R.O.W.)*
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
Un-Classified Roads	Setback from Road Centerline*	Setback from Road Right-of-Way (R.O.W.)*
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
*THE MORE RESTRICTIVE SETBACK SHALL APPLY.		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

- B. Animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance*.

- C. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.6.11 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

### 9.6.12 Height Requirements

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

### 9.6.13 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.

## **9.7 Residential District R-5 (R-5 District)**

### **9.7.1 Purpose**

The purpose of this district is to provide somewhat limited residential development opportunity on land that is not highly valued farmland and is located in close proximity to lakeshore and municipal expansion areas. Land within this district is generally closer to a municipal growth area than land within the R-10 district. The R-5 district is a transitional district, and in order to minimize future land use conflicts, new animal feedlots shall be prohibited and in order to maintain the area's rural characteristics, cluster developments shall be encouraged. This district meets the following Stearns County Comprehensive Plan goals:

- A. Provide a variety of residential opportunities (Growth and Development, Goal 6).
  - (1) Provide a diversity of housing prices and styles, meeting the needs of residents of different ages, incomes and lifestyles (Objective 1).
- B. Future Land Use Map, Limited Residential Area. This category identifies areas of large estate-type lots in limited locations in rural areas. Areas shown on map represent existing development or were identified by townships as less suitable for agriculture.
- C. Future Land Use Map, Moderate Residential. This category identifies areas in proximity to cities or townsites that are already partially developed or otherwise suitable for rural, unsewered residential development. . . These areas are not anticipated to be annexed during the time frame of this plan, but future density increases may occur. Potential TDR receiving area.

### **9.7.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services, transmission services and utility substations
- C. Family day care
- D. Group family day care
- E. Licensed residential program
- F. Licensed nonresidential program
- G. Limited agricultural uses
- H. Public and private forest and game management areas
- I. Public parks and trails
- J. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- K. Single family residential dwelling units
- L. Wind energy conversion systems (less than 6 KW)

**9.7.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to *Section 6.7 of this Ordinance*
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Government and administrative service buildings
- E. Greenhouses and nurseries
- F. Home extended businesses
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resorts and campgrounds
- J. Temporary uses/special events

**9.7.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural buildings that are accessory to a limited agricultural use
- B. Residential accessory buildings
- C. Seasonal produce sales stands
- D. Solar energy systems – accessory
- E. Swimming pools

**9.7.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedure set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches
- C. Community buildings
- D. Golf courses, golf club houses, country clubs, public swimming pools
- E. Limited rural businesses
- F. Recreational vehicle parks and campgrounds
- G. Schools – public and private
- H. Transmission services
- I. Wind energy conversion systems (6KW-40KW)

**9.7.6 Interim Uses**

The following uses may be allowed as interim uses subject to the procedure set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots. New animal feedlots with less than ten (10) animal units outside of shoreland when the provisions of *Section 6.7.6 of this Ordinance* are not met as approved by *Section 4.9 of this Ordinance* or new animal feedlots with less than ten (10) animal units within shoreland.
- B. Animal feedlots. Re-established animal feedlots outside of shoreland when the provisions of *Section 6.7.6 of this Ordinance* are not met as approved by *Section 4.9 of this Ordinance* or re-established animal feedlots within shoreland.
- C. Concrete (ready mix) or asphalt mixing facility, temporary
- D. Temporary single family residential dwelling unit for supportive care
- E. Vacation/private home rental

#### **9.7.7 Residential Density Requirements**

- A. **Density standard.** Except as otherwise provided in *Section 9.7.8 A or B of this Ordinance*, only one (1) single family residential dwelling unit shall be allowed per five (5) acres.
- B. **Density transfers allowed within a contiguous proposed development.** Residential development rights may be transferred from one five (5) acre tract to another contiguous tract.
- C. **Density transfers from non-contiguous lots.** Residential development right transfers from lots that are not contiguous within a proposed residential development must be consistent with *Section 11 of this Ordinance* unless both the sending and receiving lots have been in the same ownership at all times for a minimum of three (3) years.
- D. **Inter-Township transfers.** The transfer of residential development rights from one Township to another Township shall be approved by the sending Township and the receiving Township.
- E. **Inter-district transfers.** In instances where a property owner has ownership of land in more than one zoning district, residential development rights from the R-5 district may only be transferred to a district which permits a higher residential density.

#### **9.7.8 Standards for Determining Permitted Residential Dwelling Sites**

- A. **Parcels of Record.** Certain parcels of record recorded under separate deed and not containing five (5) acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was recorded under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was recorded under separate deed prior to April 21,

2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site.

- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
- (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. **Residential dwelling site eligibility.** An eligible five (5) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
- (1) The tract contains five (5) acres more or less and is described for example, as the NW ¼, according to the Government Land Office survey grid system; or
  - (2) The tract contains five (5) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the 5 acres calculation.
- D. **Density calculation.** Determining eligibility for a residential dwelling site on a parcel or parcels within the R-5 district shall be as follows:
- (1) The property owner's total acreage owned on the parcel or parcels all within the R-5 district, less and except any land under the OHWL, shall be calculated. In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (2) 5 acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance or Stearns County Subdivision Ordinance 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (3) The results from 1 and 2 above shall be divided by five (5) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. **Non-residential subdivisions.** Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.7.8 of this Ordinance*.
- F. **Declaration of Restriction required.** The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall

execute a Declaration of Restriction for a five (5) acre equivalent land area which is defined as five (5) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.

- G. **Equivalent land area access.** The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.
- H. **Combining eligible density from multiple parcels.** The intent of the R-5 district is to restrict residential density to an average of one residential dwelling per five (5) acres. In order to provide an opportunity to landowners that own large tracts of land to combine their eligible density into a cluster development, the transfer of residential development from one five (5) acre tract to another contiguous five (5) acre tract shall be allowed subject to the following:
- (1) Residential dwelling site transfers that are exempt from the subdivision requirements of this Ordinance shall be approved by the Director.
  - (2) When the cumulative number of residential dwelling site transfers totals two (2) or more, the sites shall be clustered and meet the cluster development standards of *Section 7.4 of this Ordinance*.
  - (3) Requests for residential dwelling site transfers shall not be approved unless accompanied by a Declaration of Restriction prohibiting any residential development on the five (5) acre tracts from which the residential development rights were transferred unless rezoned. No property conveyance involving a transfer of a residential dwelling site shall occur unless the Declaration of Restriction for the equivalent land area is first recorded in the Office of the County Recorder.

#### **9.7.9 Density Bonus**

No density bonuses are allowed in the R-5 District, except as allowed under the provisions of *Sections 7.4, 7.6 and 10.2 of this Ordinance*.

#### **9.7.10 Lot Requirements**

- A. A parcel of record that is determined as such pursuant to *Section 9.7.8 A or B of this Ordinance* that is less than five (5) acres in size shall be allowed as a residential building site.
- B. The following standards shall apply to lots or tracts created in the R-5 district:
- (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use and setback requirements of *Section*

*9.7.11 of this Ordinance, and the sewage treatment system standards of Ordinance 422; or successor ordinance.*

- C. In the R-5 zoning district, only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than five (5) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts.

### **9.7.11 Setback Requirements**

The following setback requirements shall apply:

#### **A. Minimum Building Setbacks**

- (1) Side 20 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
  - (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.
- B. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.7.11 A of this Ordinance*, shall also comply with the residential setbacks from an animal feedlot in an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

### **9.7.12 Height Requirements**

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

### **9.7.13 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent.



## **9.8 Rural Townsite District (RT District)**

### **9.8.1 Purpose**

The purpose of this district is to allow for limited and compatible planned expansion of existing land uses in the unincorporated townsites in the County. The County recognizes the existence of the small rural unincorporated townsites that were developed some time ago and which include a mixture of land uses. Thus, this district has been designated for flexibility within standards related to public health and safety.

This district meets the following Stearns County Comprehensive Plan goals:

- A. Future Land Use Map, Townsite Mixed Use. Identifies rural townsites that already include some variety of residential or commercial uses. Townsites are appropriate locations for nonagricultural development within many townships. . . . Encourage compatible new development where infrastructure can support it. Encourage conservation design on larger tracts. Encourage community water or wastewater systems where needed. Potential TDR receiving area.
  - (1) Provide a diversity of housing prices and styles, meeting the needs of residents of different ages, incomes and lifestyles (Objective 1).
- B. Provide a variety of residential opportunities (Growth and Development, Goal 6).

### **9.8.2 Permitted Uses**

The following uses are permitted, subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Existing commercial and industrial uses, except that additions or expansions thereto shall be subject to the conditional use permit procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards for conditional uses set forth in *Sections 6 and 7 of this Ordinance*
- B. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- C. Essential services, transmission services and utility substations
- D. Family day care
- E. Group family day care
- F. Licensed nonresidential program
- G. Licensed residential program
- H. Limited agricultural uses
- I. Public parks and trails
- J. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- K. Single family residential dwelling units
- L. Wind energy conversion systems (less than 6KW)

**9.8.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Attached single family residential dwellings
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Government administrative and service buildings
- E. Greenhouses and nurseries
- F. Home extended businesses
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resorts and campgrounds
- J. Temporary uses/special events

**9.8.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural buildings that are accessory to a limited agricultural use
- B. Residential accessory buildings
- C. Outdoor display
- D. Seasonal produce sales stands
- E. Solar energy systems – accessory
- F. Swimming pools

**9.8.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Bus garages
- C. Churches
- D. Community buildings
- E. Drive in businesses
- F. Eating and drinking establishments
- G. Gasoline stations and/or convenience stores
- H. Grocery stores
- I. Licensed residential program for seven (7) to sixteen (16) persons pursuant to *Minnesota Statutes, section 245A.11; or successor statutes*
- J. Manufacture of wood products
- K. Motor vehicle repair
- L. Motor vehicle repair, accessory
- M. Offices of any type
- N. Schools – public and private

- O. Transmission services
- P. Wind energy conversion systems (6KW-40KW)
- Q. Any use of land that is consistent with the purpose of the Rural Townsite District which is not expressly prohibited or provided for in the Rural Townsite District and which, by its nature, does not constitute a public or private nuisance because of adverse secondary characteristics, noise, dirt, soot, offensive odor, unsanitary conditions or incompatible use.

#### **9.8.6 Interim Uses**

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Temporary single family residential dwelling unit for supportive care
- B. Vacation/private home rental

#### **9.8.7 Residential Density Requirements**

Residential dwelling site density in the Rural Townsite District shall be regulated by the lot requirements of *Section 9.8.8 of this Ordinance*, except as provided below in *Section 9.8.7 A*.

- A. **Transfer of development rights.** If approved by the Township within which the rural townsite is located, consistent with *Section 11.1.3 of this Ordinance*, rural townsites are a designated receiving area for the County's transfer of development rights program.
  - (1) Up to two (2) additional units may be added to the base number of units allowed under *Section 9.8.8 of this Ordinance*.
  - (2) All lots shall meet setback and wastewater provisions of *Sections 9.8.9 and 9.8.13 of this Ordinance*.

#### **9.8.8 Lot Requirements**

- A. Lots, parcels or tracts of record that are in separate ownership from abutting lands on the effective date of this Ordinance that do not meet the lot size requirement for a single family dwelling in *Section 9.8.8 B of this Ordinance* may be allowed as a residential dwelling site provided that all other provisions of this Ordinance can be met. The sewage treatment system standards of *Ordinance Number 422; or successor ordinance* shall be met.
- B. Lot area requirements. The minimum lot size requirements shall be as follows:
  - (1) Single family dwelling
    - (a) Thirty thousand (30,000) square feet with an approved individual sewage treatment system.
    - (b) Fifteen thousand (15,000) square feet with an approved community sewer system.
  - (2) Attached Single Family Dwelling Units

- (a) Forty thousand (40,000) square feet with an approved individual sewage treatment system for an Attached Single Family Dwelling containing two (2) dwelling units. An additional ten thousand (10,000) square feet shall be required for each additional unit.
  - (b) Forty thousand (40,000) square feet for an Attached Single Family Dwelling containing two dwelling units with an approved community sewer system. An additional five thousand (5,000) square feet shall be required for each additional unit.
- (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance* for the proposed use and setback requirements of *Section 9.8.9 of this Ordinance* and the sewage treatment system standards of *Ordinance 422; or successor ordinance*.
- C. Lot width requirement. The minimum median lot width shall be one hundred (100) feet.
- D. Ordinary High Water Line. Land under the OHWL shall not be included in the calculation for the minimum lot size.

### 9.8.9 Setback Requirements

#### A. Minimum Building Setbacks

- (1) Side 10 feet
- (2) Rear 30 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

- B. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.8.9 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

#### **9.8.10 Height Requirements**

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural buildings shall be exempt from the height requirements.

#### **9.8.11 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent except that uses listed as conditional may have a maximum lot coverage of up to sixty (60) percent outside the shoreland district.

#### **9.8.12 Keeping of Animals**

The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any lot, parcel or tract of less than one (1) acre in the RT District, except as allowed in *Section 5.1.4 D of this Ordinance*. New pasture shall be prohibited.

#### **9.8.13 Sewage Treatment and Drinking Water Systems**

Community subsurface sewage treatment systems and/or community drinking water systems may be required where soil types and other environmental sensitivities, such as shallow bedrock formations and susceptibility to nitrate nitrogen contamination, are such that additional measures may be necessary to protect the public health, safety and welfare.

- A. Community system placement. Community subsurface sewage treatment systems and community drinking water systems may be placed within open space or conservation areas, provided the goals of the conservation areas are not compromised by the placement of the systems.
- B. Individual system placement. Individual subsurface sewage treatment systems may be placed within open space or conservation areas, provided the goals of the conservation areas are not compromised by the placement of the systems.
- C. A subordinate service district, a customer owned utility or other entity acceptable to the Board shall be responsible for the management of any community wastewater systems and any community drinking water supply system.



## **9.9 Residential District R-1 (R-1 District)**

### **9.9.1 Purpose**

The purpose of this district is to provide high-density growth and affordable housing near municipalities that can more readily provide services and to allow additional development in certain areas that are more urban in character because of previous residential development. It is also intended that this district will allow residential development consistent with the Shoreland District. The R-1 district is reserved for residential development. Therefore, new animal feedlots and the raising of livestock shall be prohibited. Land within this district will be land that is not agriculturally important, but in need of special consideration because of its unique natural and/or topographic characteristics. For this reason, the clustering of development may be required. This district meets the following Stearns County Comprehensive Plan goals:

- A. Provide a variety of residential opportunities (Growth and Development, Goal 6).
  - (1) Provide a diversity of housing prices and styles, meeting the needs of residents of different ages, incomes and lifestyles (Objective 1).
- B. Future Land Use Map, Shoreland/ Concentrated Residential. Recognizes existing largely developed shorelands areas, including resorts and other recreational uses and “concentrated” residential areas. Limited areas for new development, in response to some townships’ preferences. Encourage conservation design that keeps lakeshore in naturally vegetated state. Consider elements of Alternative Shoreland Standards to protect water quality. TDR sending or receiving in appropriate locations.
- C. Future Land Use Map, Moderate Residential. This category identifies areas in proximity to cities or townsites that are already partially developed or otherwise suitable for rural, unsewered residential development. . . These areas are not anticipated to be annexed during the time frame of this plan, but future density increases may occur. Potential TDR receiving area.

### **9.9.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services , transmission services and utility substations
- C. Family day care
- D. Group family day care
- E. Licensed nonresidential program
- F. Licensed residential program
- G. Limited agricultural uses
- H. Public parks and trails
- I. Signs – non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- J. Single family residential dwelling units

- K. Wind energy conversion systems (less than 6KW)

### **9.9.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to *Section 6.7 of this Ordinance*
- B. Attached single family dwellings units
- C. Bed and Breakfast Inns
- D. Cemeteries
- E. Government administrative and service buildings
- F. Greenhouses and nurseries
- G. Home occupations
- H. Outdoor recreational facilities
- I. Temporary use sites in licensed resort and campground
- J. Temporary uses/special events

### **9.9.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Residential accessory buildings
- B. Seasonal produce sales stands
- C. Solar energy systems – accessory
- D. Swimming pools

### **9.9.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches
- C. Community buildings
- D. Licensed residential program for seven (7) to sixteen (16) persons pursuant to *Minnesota Statutes, section 245A.11; or successor statutes*
- E. Public swimming pools
- F. Schools – public or private
- G. Transmission services
- H. Wind energy conversion systems (6 - 40KW)



**9.9.6 Interim Uses**

The following uses may be allowed as interim uses, subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Temporary single family residential dwelling unit for supportive care
- B. Vacation/private home rental

**9.9.7 Residential Density Requirements**

Residential dwelling site density in the R-1 district shall be regulated by the lot requirements of *Section 9.9.8 of this Ordinance*.

**9.9.8 Lot Requirements**

- A. Lots, parcels or tracts of record that are in separate ownership from abutting lands on the effective date of this Ordinance that do not meet the lot size requirement for a single family dwelling in *Section 9.9.8 B of this Ordinance* may be allowed as a residential dwelling site provided that all other provisions of this Ordinance can be met. The sewage treatment system standards of *Ordinance Number 422; or successor ordinance*, shall also be met.
- B. Lot Area Requirements. The minimum lot size requirements shall be as follows:

- (1) Single Family Dwelling

- (a) Thirty thousand (30,000) square feet with an approved individual sewage treatment system.
  - (b) Fifteen thousand (15,000) square feet with an approved community sewer system.

- (2) Attached Single Family Dwelling Units:

- (a) Forty thousand (40,000) square feet with an approved individual sewage treatment system for an Attached Single Family Dwelling containing two (2) dwelling units. An additional ten thousand (10,000) square feet shall be required for each additional dwelling unit.
  - (b) Thirty thousand (30,000) square feet for an Attached Single Family Dwelling containing two dwelling units with an approved community sewer system. An additional five thousand (5,000) square feet shall be required for each additional dwelling unit.

- (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance* for the proposed use and setback requirements of *Section 9.9.9 of this Ordinance*, and the sewage treatment system standards of *Ordinance Number 422; or successor ordinance*.

- C. The minimum lot width shall be one hundred (100) feet
- D. Minimum lot depth shall be one hundred twenty five (125) feet.

- E. Land under the OHWL shall not be included in the calculation for the minimum lot size.

### 9.9.9 Setback requirements

#### A. Minimum Building Setbacks

- (1) Side 10 feet
- (2) Rear 30 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
*THE MORE RESTRICTIVE SETBACK SHALL APPLY.		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

- B. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.9.9 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80, or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

### 9.9.10 Height Requirements

Buildings shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.

### 9.9.11 Lot Coverage

The maximum lot coverage shall be twenty five (25) percent.

### 9.9.12 Keeping of Animals

The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any lot, parcel or tract in the R-1 district, except as allowed in *Section 5.1.4 D and Section 6.7.6 B of this Ordinance*. New pasture shall be prohibited.

**9.9.13 Sewage Treatment and Drinking Water Systems**

Community subsurface sewage treatment systems and/or community drinking water supply systems may be required where soil types and other environmental sensitivities, such as shallow bedrock formations and susceptibility to nitrate nitrogen contamination, are such that additional measures may be necessary to protect the public health, safety and welfare.

- A. Community system placement. Community subsurface sewage treatment systems and community drinking water supply systems may be placed within open space or conservation areas, provided the goals of the conservation areas are not compromised by the placement of the systems.
- B. Individual system placement. Individual sewage treatment systems may be placed within open space or conservation areas, provided the goals of the conservation areas are not compromised by the placement of the systems.
- C. A subordinate service district, a customer owned utility or other entity acceptable to the Board shall be responsible for the management of any community wastewater systems and any community drinking water supply system.



## **9.10 Commercial District (C District)**

### **9.10.1 Purpose**

The purpose of this district is to promote the concentration of a wide range of commercial and recreational establishments into a general commercial area to service local residents and the traveling public.

This district meets the following Stearns County Comprehensive Plan goals:

- A. Manage the impacts of growth and development on the County's rural character (Growth and Development, Goal 3).
  - (1) Identify appropriate areas for commercial, industrial, and non-farm rural residential developments (Objective 2).
- B. Future Land Use Map, Commercial. Primarily low intensity service and retail that does not demand a high level of wastewater treatment, sited where the transportation system has adequate capacity. Generally applies to existing developed areas.
- C. Enhance the ability of local retail and commercial businesses to sustain small city and town center commercial areas (Economic Development Goal 1, Objective 7).
- D. Assist businesses with job retention and expansion opportunities (Economic Development Goal 2, Objective 1).
- E. Focus development in and adjacent to cities, not between them. Specifically, the extension of a strip commercial development pattern along MN 23 should be avoided (Minnesota Highway 23 Corridor Policy Area).
- F. Allow the greatest degree of flexibility in this area in considering land use changes to commercial/ industrial use, provided that impacts on roads and infrastructure are minimized (Southwest Policy Area).

### **9.10.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Bait shops
- C. Beauty shops
- D. Bowling alleys
- E. Community buildings
- F. Day care centers
- G. Eating and drinking establishments
- H. Essential services , transmission services and utility substations
- I. Financial institutions
- J. Funeral homes, mortuaries
- K. Golf courses and club houses
- L. Grain and seed sales and storage
- M. Grocery stores
- N. Health clubs
- O. Landscape, nursery, greenhouse or garden sales

- P. Laundromats
- Q. Offices, clinics
- R. Public swimming pools
- S. Resort facilities including lodges and cabins and an operator's residence.
- T. Retail uses conducted entirely within a building
- U. Storage facilities
- V. Theatres, amusement parks
- W. Truck terminal - small
- X. Veterinary clinics
- Y. Warehousing and distribution facilities
- Z. Wind energy conversion systems (less than 6KW)

#### **9.10.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Adult uses – accessory
- B. Government administrative and service buildings
- C. Outdoor recreational facilities
- D. Temporary use sites in licensed resorts and campgrounds
- E. Temporary uses/special events

#### **9.10.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory uses and structures that are incidental to the principal use.
- B. Outdoor display
- C. Outdoor storage
- D. Signs – non-commercial, on-premise
- E. Solar energy systems – accessory
- F. Swimming pools

#### **9.10.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*.
- B. Drive in businesses
- C. Gasoline stations and/or convenience stores
- D. Hotels, motels
- E. Kennels, commercial, boarding only
- F. Motor vehicle repair
- G. Multi-family residential dwellings
- H. Off-premise signs (billboards)

- I. Outdoor sales lots, including used cars, trucks, trailers and farm implements
- J. Recreational vehicle parks and campgrounds
- K. Recycling centers
- L. Resorts
- M. Ski areas and lodges
- N. Solar farms
- O. Transmission services
- P. Wholesale and storage establishments
- Q. Wind energy conversion system (greater than 6KW)
- R. Any use of land that is consistent with the purpose of the Commercial District that is not expressly prohibited or provided for which creates employment and economic advantage.

#### **9.10.6 Interim Uses**

The following use may be allowed as an interim use subject to the procedures set forth in *Section 4.48 of this Ordinance* and further subject to the performance and general development standards contained in *Section 6 and 7 of this Ordinance*.

- A. Meteorological towers
- B. Vacation/private home rentals

#### **9.10.7 Lot Requirements**

For all uses within the Commercial District the minimum lot size shall be sufficient to meet the applicable performance standards of this Ordinance for the proposed use, setback requirements of *Section 9.10.8 of this Ordinance*, and the *sewage treatment system standards of Ordinance Number 422; or successor ordinances*.

#### **9.10.8 Setback Requirements**

##### **A. Minimum Building Setbacks**

- (1) Side 20 feet
- (2) Rear 20 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50

<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30

**\*THE MORE RESTRICTIVE SETBACK SHALL APPLY.**

**9.10.9 Height Requirement**

Structures shall not exceed forty five (45) feet in height, except as provided in *Section 7.14 of this Ordinance*.

**9.10.10 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent in the shoreland district and up to sixty (60) percent outside any shoreland district.

**9.10.11 Relationship to Orderly Annexation Agreement**

If property in the Commercial District lies within an area subject to an Orderly Annexation Agreement (OAA) which has been formally adopted by a township and city, the provisions of the OAA shall supersede the provisions of *Section 9 of this Ordinance* if they cover the same subject matter. For example, if the OAA specifically defines permitted uses to be allowed, the OAA listed uses supersede the permitted uses in *Section 9.10.2 of this Ordinance*; or, if the OAA is silent on lot coverage requirements, then the provisions in *Section 9.10.10 of this Ordinance* shall apply. All subdivision applications in the Commercial District and an area subject to an OAA shall be reviewed for consistency with the OAA by both the Township and the City affected.



## **9.11 Industrial District (I District)**

### **9.11.1 Purpose**

The intent of the Industrial District is to allow small scale industrial uses that require limited services that can be suitably located next to existing urban areas in the County and at standards that will not impair the traffic carrying capabilities of abutting roads and highways.

The Industrial District implements the following Stearns County Comprehensive Plan goals:

- A. Future Land Use Map, Industrial Area. Medium intensity employment that does not demand a high level of wastewater treatment or water supply, in locations with adequate transportation capacity. Generally applies to existing developed areas.
- B. Manage the impacts of growth and development on the County's rural character (Land Use Goal 3).
  - (1) Discourage incompatible land uses through effective land use controls (Objective 1).
  - (2) Identify appropriate areas for commercial, industrial, and non-farm rural residential developments (Objective 2).
- C. Allow the greatest degree of flexibility in this area in considering land use changes to commercial/ industrial use, provided that impacts on roads and infrastructure are minimized (Southwest Policy Area).
- D. Maintain and strengthen economic diversity (Economic Development Goal 1).
  - (1) Encourage industrial development within existing communities, including redevelopment of existing sites and filling of industrial and business parks (Objective 2).
- E. Update, diversify and expand the manufacturing sector of the economy (Economic Development Goal 2).
  - (1) Secure new manufacturing enterprises, including opportunities to create value-added operations to the County's agricultural and natural resource base, and to take advantage of Stearns County's access to other regional and national markets (Objective 2).

### **9.11.2 Permitted Uses**

The following uses are permitted uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Brick and tile manufacturing
- C. Cement production
- D. Essential services , transmission services and utility substations
- E. General manufacturing
- F. Light manufacturing
- G. Motor vehicle repair

- H. Stone milling
- I. Storage facilities
- J. Truck terminals – small
- K. Warehousing and distribution facilities
- L. Wholesale and storage establishments
- M. Wind energy conversion systems (up to 40KW)

#### **9.11.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Adult uses-principal
- B. adult uses – accessory
- C. Government administrative and services buildings
- D. Temporary uses/special events

#### **9.11.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory uses and structures that are incidental to the principal use.
- B. Outdoor storage – accessory
- C. Outdoor display – accessory
- D. Signs – accessory, non-commercial, on-premise
- E. Solar energy systems – accessory

#### **9.11.5 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Alcohol manufacturing
- B. Antennae subject to the conditions of *Section 7.28 of this Ordinance*
- C. Biofuel plants
- D. Concrete (ready mix) or asphalt mixing facility, permanent
- E. Electric power manufacturing
- F. Food processing
- G. Gasoline stations and/or convenience stores
- H. Junk and salvage operations
- I. Kennels – commercial, boarding
- J. Kennels – commercial, breeding
- K. Off-premise signs (billboards)
- L. Outdoor sales lots
- M. Quarrying
- N. Recycling center
- O. Solar farms
- P. Solid waste disposal facilities

- Q. Solid waste transfer facilities
- R. Solid waste composting facilities
- S. Transmission services
- T. Truck terminals- large
- U. Wind energy conversion system (greater than 40KW)
- V. Any use of land that is consistent with the purpose of the Industrial District which is not expressly prohibited or provided for in the Industrial District and which, by its nature, does not constitute either a public or private nuisance because of noise, dirt, soot, offensive odor, secondary characteristics or unsanitary conditions.

#### **9.11.6 Interim Uses**

The following interim uses may be allowed in the Industrial District:

- A. Meteorological towers
- B. Mining
- C. Concrete (ready mix) or asphalt mixing facility, temporary

#### **9.11.7 Lot Requirements**

For all uses within the Industrial District, the minimum lot size shall be sufficient to meet the applicable performance and general development standards of this Ordinance for the proposed use, setback requirements of *Section 9.11.8 of this Ordinance*, and the *subsurface sewage treatment system standards of Ordinance Number 422; or successor ordinances.*

#### **9.11.8 Setback Requirements**

##### **A. Minimum Building Setbacks**

- (1) Side 20 feet
- (2) Rear 20 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road	63	30
Easement		
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

#### **9.11.9 Height Requirement**

Buildings shall not exceed forty five (45) feet in height, except as provided in *Section 7.14 of this Ordinance.*

**9.11.10 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent in the shoreland district and up to sixty (60) percent outside any shoreland district.

**9.11.11 Relationship to Orderly Annexation Agreement**

If property in the Industrial District lies within an area subject to an Orderly Annexation Agreement (OAA) which has been formally adopted by a township and city, the provisions of the OAA shall supersede the provisions of *Section 9 of this Ordinance* if they cover the same subject matter. For example, if the OAA specifically defines permitted uses to be allowed, the OAA listed uses supersede the permitted uses in *Section 9.11.2 of this Ordinance*; or, if the OAA is silent on lot coverage requirements, then the provisions in *Section 9.11.10 of this Ordinance* shall apply. All subdivision applications in the Industrial District and an area subject to an OAA shall be reviewed for consistency with the OAA by both the Township and the City affected.

## **9.12 Educational/Ecclesiastical District (EE District)**

### **9.12.1 Purpose**

The purpose of this district is to provide for the preservation and management of historically significant educational or ecclesiastical institutions that are located within the County.

This district implements the following Stearns County Comprehensive Plan goals:

- A. Future Land Use Map, Public Semi-Public. Includes county parks and state/federal wildlife areas, college campus, and similar large institutions. . . No development except institutional or recreational / open space uses
- B. Continue to expand the non-agriculture employment base, including service providers, manufacturing, and retail capacity. The County has a diverse set of industries, some of which are closely related to natural resources (such as the granite products industry) and some of which are more closely related to the population base (such as medical facilities and institutions of higher education) (Economic Development Policy 6).

### **9.12.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standard contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Churches and similar places of worship
- C. Colleges and universities
- D. Essential services , transmission services and utility substations
- E. Public and private forest and game management areas
- F. Limited agricultural uses
- G. Monasteries or convents
- H. Outdoor recreation
- I. Schools- private or public
- J. Seminaries
- K. Wind energy conversion systems (less than 6KW)
- L. Any use of land that is consistent with the purpose of the Educational/Ecclesiastical District which is not expressly prohibited or provided for in the Educational/Ecclesiastical District.

### **9.12.3 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Signs – accessory, non-commercial, on-site
- B. Solar energy systems – accessory
- C. Swimming pools – accessory

**9.12.4 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots subject to *Section 6.7 of this Ordinance*
- B. Cemeteries
- C. Temporary uses/special events

**9.12.5 Conditional Uses**

The following use may be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Solar farms
- C. Transmission services
- D. Wind energy conversion system (greater than 6KW)

**9.12.6 Interim Uses**

The following interim uses may be allowed in the Educational/Ecclesiastical District:

- A. Meteorological towers

**9.12.7 Setback Requirements****A. Minimum Building Setbacks**

- (1) Side 20 feet
- (2) Rear 20 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
*THE MORE RESTRICTIVE SETBACK SHALL APPLY.		

**9.12.8 Height Requirements**

- A. In the Shoreland District, buildings shall not exceed fifty (50) feet in height, except as provided in *Section 7.14 of this Ordinance*.

**9.12.9 Keeping of Animals**

The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any lot, parcel or tract in the EE district, except as allowed in *Section 6.7.6 B of this Ordinance*. New pasture shall be prohibited.





### **9.13 Scenic River District (SR District)**

#### **9.13.1 Purpose**

The purpose of the Scenic River District is to protect and preserve the scenic, recreational and natural values of the Mississippi River by controlling development within a specified river corridor consistent with *Minnesota Rules, parts 6105.0800-6105.0870* and *Minnesota Rules, parts 6105.0010-6105.0250; or successor rules*. This district implements the following Stearns County Comprehensive Plan goals:

A. River Corridor Policies, North and South.

- (1) Encourage conservation design to preserve natural and scenic values (Policy 1).
- (2) Recognize that soil conditions may limit development potential or require additional focus on water and wastewater treatment (Policy 2).
- (3) Encourage community systems for water/wastewater treatment as a means of protecting groundwater (Policy 3).
- (4) Focus on those road improvements needed to keep pace with development (Policy 4).
- (5) Emphasize staging of development to avoid a leapfrog pattern (Policy 5).

B. Preserve important natural systems (Natural Resource Goal 1).

- (1) Identify the suitability of natural systems and resources for development or use (Objective 1).
- (2) Develop strong performance standards to preserve sensitive natural features and systems (Objective 2).

C. Coordinate natural resource protection efforts with natural resource, land use planning, and development activities of state and federal agencies, cities, and townships (Natural Resource Implementation 1).

#### **9.13.2 Scenic River District Boundaries**

The boundaries of the Scenic River District are based upon and are consistent with the Mississippi River Management Plan, *Minnesota Rules, parts 6105.0800-6105.0870; or successor rules*.

#### **9.13.3 Designation**

The following land is designated as part of the Scenic River District:

#### **LYNDEN TOWNSHIP T123N – R27W**

##### **Section 20**

Government Lot 1 – Containing 25.18 acres

Government Lot 2 – Containing 26.43 acres

N1/2,SW1/4,NE1/4 – Containing 20.00 acres

N1/2,NE1/4,SE1/4 -Containing 20.00 acres

**Section 21**

Government Lot 1 – Containing 48.10 acres

Government Lot 2 – Containing 37.96 acres

Government Lot 3 – Containing 41.92 acres

**Section 26**

Government Lot 1 – Containing 29.42 acres

Government Lot 2 – Containing 33.25 acres

**Section 27**

Government Lot 1 – Containing 23.95 acres

The North 11.72 acres of Government Lot 2

Government Lot 3 – Containing 31.58 acres

Government Lot 4 – Containing 60.97 acres

**Section 28**

Government Lot 1 – Containing 41.26 acres

Government Lot 2 – Containing 60.62 acres

SW1/4,NE1/4 - Containing 40.00 acres

SE1/4,NW1/4 lying Northeasterly of road containing 32.00 acres

**Section 35**

Government Lot 5 – Containing 43.65 acres

**9.13.4 Conflicts**

In the case of a conflict between the zoning map and the descriptions listed in *Section 9.13.3 of this Ordinance*, this Ordinance shall prevail.

**9.13.5 Tributaries**

The following streams are designated as tributaries to the Mississippi River. All land adjacent to that part of a designated tributary that is within the Scenic River District shall be subject to the standards imposed in the Scenic River District and any applicable overlay district:

- A. Plum Creek
- B. Clearwater River

**9.13.6 Permitted Uses**

The following uses are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots in existence on the effective date of this Ordinance.  
Expansions and/or modifications to existing animal feedlots shall only be permitted by and be subject to the provisions of *Section 4 and Section 6.7 of this Ordinance*
- B. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- C. Essential services , transmission services and utility substations
- D. Family day care
- E. Governmental campgrounds, subject to *Scenic Rivers Management Plan* specifications
- F. Governmental open space recreational uses, subject to *Scenic Rivers Management Plan* specifications

- G. Governmental resource management areas for improving fish and wildlife habitat, wildlife management areas, nature areas and accessory roads
- H. Licensed nonresidential programs
- I. Licensed residential program
- J. Limited agricultural uses
- K. Private roads and minor public streets
- L. Residential cluster developments
- M. Road type public access with boat launching facilities, subject to *Scenic Rivers Management Plan* specifications
- N. Signs subject to *Section 7.25 of this Ordinance*.
- O. Single family residential dwelling units
- P. Trail type public access, subject to *Scenic River Management Plan* specifications

#### **9.13.7 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Home occupations
- B. Bed and Breakfast Inns
- C. Cemeteries
- D. Government administrative and service buildings
- E. Temporary uses/special events

#### **9.13.8 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Grading and filling, subject to the provisions of *Section 9.13.17 of this Ordinance*
- C. Private recreational camping areas subject to the *Scenic Rivers Management Plan* specifications and the following:
  - (1) The first tier shall be evaluated according to the commercial shoreland planned unit development standards contained in *Section 10.2.23 of this Ordinance*.
  - (2) No recreational vehicle or tent shall be placed nearer the ordinary high water mark as specified in *Section 9.13.11 of this Ordinance*.
  - (3) The size of each recreational campsite shall comply with the site size requirements of *Stearns County Ordinance Number 187*; or successor ordinances.
  - (4) Adequate vegetative screening for the recreational camping area shall be maintained consistent with the provisions of *Section 9.13.16 of this Ordinance*.
- D. Private open space recreational uses, subject to the *Scenic Rivers Management Plan* specifications

- E. Public roads, subject to the provisions of *Section 9.13.18 of this Ordinance*
- F. Temporary docks
- G. Transmission services

#### **9.13.9 Permitted Accessory Uses and Structures**

The following accessory buildings and uses are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Residential accessory buildings
- B. Accessory agricultural buildings that are accessory to an agricultural operation
- C. Signs subject to *Section 7.25 of this Ordinance*
- D. Solar energy systems – accessory
- E. Swimming pools

#### **9.13.10 Lot Size Requirements**

The minimum lot size shall be four (4) acres and at least two hundred fifty (250) feet in width at the building line and at least two hundred fifty (250) feet in width at the water line for lots abutting the Mississippi River and designated tributaries.

#### **9.13.11 Placement of Structures on Lots**

The following standards shall apply to the placement of structures on lots:

- A. All structures shall be setback one hundred fifty (150) feet from the Ordinary High Water Level of the Mississippi River and/or designated tributary.
- B. All structures shall be setback thirty (30) feet from the top of a bluff.
- C. No structure or accessory building, except stairways and landings, shall be placed within the bluff impact zone.
- D. Structures shall not be placed on any slope greater than thirteen (13) percent unless the structure is screened.

#### **9.13.12 Setback requirements**

##### **A. Minimum Building Setbacks**

- (1) Side 10 feet
- (2) Rear 30 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30

Private Road Easement	63	30
*THE MORE RESTRICTIVE SETBACK SHALL APPLY.		

- B. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.13.11 and 9.13.12 A of this Ordinance*, shall also comply with the residential setbacks from an A-160, A-80 or A-40 zoning district as provided in *Section 6.7.5 A of this Ordinance*.

#### **9.13.13 Height Requirements**

- A. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height, except as provided in *Section 7.14 of this Ordinance*.  
 B. Agricultural buildings shall be exempt from the height requirements.

#### **9.13.14 Lots of Record**

Lots of record at the County Recorder's Office on or before June 21, 1977, which do not meet the lot size requirement of *Section 9.13.10 of this Ordinance* may be allowed as a building site without variances from lot size requirements, provided the use is permitted in the Scenic River District, the lot was recorded in separate ownership from abutting lands at the County Recorder's Office on or before June 21, 1977, and the sewage treatment and structure setbacks can be met.

#### **9.13.15 Utility Transmission Lines**

All utility transmission crossings of land within the Scenic River District shall require the applicant to obtain a conditional use permit. The construction of the transmission line shall be subject to the standards and criteria contained in *Minnesota Rules, parts 6105.0170 to 6105.0180; or successor rules*.

#### **9.13.16 Landscape Alterations**

- A. On lands within one hundred fifty (150) feet of the Ordinary High Water Level of the river and designated tributaries, and on any lands thirty (30) feet landward of any bluff, the following standards shall apply:
- (1) Clear cutting, except for authorized public services such as roads and utilities, shall not be allowed.
  - (2) The selective cutting of trees in excess of four (4) inches diameter at breast height may be permitted provided cutting is spaced in several cutting operations and a continuous tree cover is maintained.
  - (3) The cutting provisions of *Section 9.13.16 A. (1) and (2) of this Ordinance* shall not be deemed to prevent:
    - (a) The removal of diseased or insect infested trees or the removal of rotten or damaged trees that present safety hazards.
    - (b) The pruning of understory, vegetation, shrubs, plants, brush, grasses or from harvesting crops or cutting suppressed trees or trees less than four (4) inches in diameter at breast height.

- B. On lands one hundred fifty (150) feet or more from the Ordinary High Water Level of the river or designated tributaries and on land thirty one (31) feet or more from a bluff, clearcutting of vegetation may be allowed, subject to the following standards and criteria:
- (1) Clearcutting shall not be used as a cutting method where soil, slope or other watershed conditions are determined by the Director to be fragile and subject to severe erosion and/or sedimentation. This determination may be made with the assistance of the Soil and Water Conservation District.
  - (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 the clearcut blocks, patches or strips shall be kept to a minimum.

#### **9.13.17 Grading and Filling**

Grading and filling activities within the Scenic River District shall require a Conditional Use Permit and shall comply with the following:

- A. Grading and filling of the natural topography that is not accessory to a permitted or conditional use shall not be allowed.
- B. A permit to grade and fill may only be issued if the conditions of *Section 9.13.17 C and D of this Ordinance* are properly satisfied.
- C. Grading and filling of the natural topography, which is accessory to a permitted or conditional use, shall be performed in a manner which minimizes earth moving, erosion, tree clearing and the destruction of natural resources and amenities including, but not limited to, view.
- D. Grading and filling in the natural topography shall meet the following standards:
  - (1) The smallest amount of bare ground is exposed for as short a time as feasible.
  - (2) Temporary ground cover such as mulch is used and permanent ground cover, such as sod, is planted.
  - (3) Methods to prevent erosion and to trap sediment are employed.
  - (4) Fill is stabilized to acceptable engineering standards.

#### **9.13.18 Public Roads**

A conditional use permit shall be required for the construction or reconstruction of public roads within the Scenic River District. The construction or reconstruction of public roads shall be subject to standards and criteria of *Minnesota Rules, part 6105.0190; or successor rules*. A conditional use permit shall not, however, be required for minor public streets intended to serve primarily as an access to abutting properties.

#### **9.13.19 Conservation Design Development**

A conservation design development may be allowed subject to the standards set forth for conservation design developments in *Section 7.6 of this Ordinance*.

Except for minimum setback and height limits, altered dimensional standards may be allowed as exceptions to this Ordinance for conservation design developments provided:

- A. Preliminary plans are approved by the Commissioner prior to County approval
- B. Central sewage treatment systems are installed
- C. Conservation areas are identified and preserved
- D. There is not more than one centralized boat launching facility for each conservation design development
- E. No density bonus is allowed unless the development is within a natural resource conservation design overlay, consistent with *Section 10.3 of this Ordinance*.
- F. All development shall also be evaluated in accordance with the residential open space developments in shoreland standards contained in *Section 10.2.22 of this Ordinance*





**9.14 Residential Manufactured Home District (RMH District)****9.14.1 Purpose**

The purpose of a Residential Manufactured Home District is to provide a separate district for manufactured home parks, distinct from other residential areas or land uses. This district meets the following Stearns County Comprehensive Plan goals:

- A. Provide a variety of residential opportunities (Land Use Goal 6).
  - (1) Provide a diversity of housing prices and styles, meeting the needs of residents of different ages, incomes and lifestyles (Objective 1).
  - (2) Support existing joint planning ventures in the areas of emergency services, solid waste, transit, social services, affordable housing, park and trail planning and other areas (Intergovernmental Cooperation, Goal 2, Objective 2).

**9.14.2 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services , transmission services and utility substations
- C. Family day care
- D. Licensed nonresidential programs
- E. Licensed residential programs
- F. Management office of a manufactured home
- G. Manufactured homes

**9.14.3 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Temporary uses/special events

**9.14.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. One accessory storage building per manufactured home, subject to the following:
  - (1) No accessory building shall be located closer than ten (10) feet to an adjacent manufactured home.
  - (2) The exterior color of the accessory building shall be similar to the manufactured home to which it is the accessory.
  - (3) The maximum overall height shall be thirteen (13) feet from the floor to the peak.

- (4) The placement of the accessory building shall be no closer to the road than the manufactured home.
- (5) The maximum accessory building area allowed is six hundred (600) square feet.
- B. Maintenance building(s) for the purpose of storage and maintenance of materials and equipment used in the operation of the manufactured home park.
- C. Emergency shelter building in accordance with the standards set forth in *Stearns County Ordinance Number 203; or successor ordinances*.
- D. One non-structurally attached addition per manufactured home, not to exceed one hundred twenty (120) square feet in floor area and shall be no higher than the manufactured home.
- E. Signs – accessory, non-commercial, on-premise
- F. Solar energy systems – accessory
- G. Swimming pools

#### **9.14.5 Conditional Uses**

The following uses may be allowed as conditional uses, subject to the procedures set forth in *Section 4.8 of this Ordinance*, and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Outdoor storage of equipment, including recreational equipment owned by the residents or operators of the manufactured home park, subject to the following:
  - (1) The storage area shall be surfaced with a material which is designed to control dust, drainage and weed growth.
  - (2) The storage area shall be screened from the residential portions of the manufactured home park, neighboring property and public roads serving the park.
- C. A community garage subject to the following:
  - (1) The garage shall be located no closer than ten (10) feet to any other structures.
  - (2) The maximum sidewall height shall be ten (10) feet.
  - (3) The maximum overall height shall be in keeping with the essential character of the locality and shall be established by the Board as part of the Conditional Use Permit.
  - (4) The maximum number of garage stalls shall not exceed the number of units the park is licensed for.
  - (5) The community garage shall only be used by residents of the manufactured home park.
- D. Transmission services
- E. Wind energy conversion systems (less than 6KW)

**9.14.6 Design/Operational Standards for Manufactured Home Parks**

- A. Manufactured home parks shall be licensed, designed, operated and comply with all requirements and standards for manufactured home parks contained in *Stearns County Ordinance Number 203; or successor ordinances.*
- B. The following additional standards shall apply to manufactured home parks:
  - (1) Park Size. The minimum area required for a manufactured home park designation shall be five (5) acres.
  - (2) Site Size. The minimum area required for a manufactured home site shall be as follows:
    - (a) The minimum site size for manufactured homes fourteen (14) feet or less in size shall be in accordance with the standards set forth in *Stearns County Ordinance Number 203; or successor ordinances.*
    - (b) The minimum site size for manufactured homes greater than fourteen (14) feet and less than eighteen (18) feet in width shall be six thousand fifty (6,050) square feet in area and no less than fifty five (55) feet in length.
    - (c) The minimum site size for manufactured homes greater than eighteen (18) feet in width shall be six thousand five hundred (6,500) square feet in area and not less than sixty five (65) feet in length.
- C. Recreation. All manufactured home parks shall have at least ten (10) percent of the land area developed for recreational use (tennis courts, children's play area, etc) developed and maintained at the owner/operator's expense.
- ~~D.a.~~ Storage. Storage of large items such as boats, boat trailers, etc., shall be accommodated in a separate secured and screened area of the park and may only be approved through issuance of a conditional use permit.
- ~~E.D.~~ Landscaping. A compact hedge, fence or landscaped area shall be installed.

**9.14.7 Manufactured Home Requirements**

- A. No manufactured home shall be located in a manufactured home park that does not conform to the requirements of the *Manufactured Home Building Code as defined in Minnesota Statutes, Section 327.31, subdivision 3; or successor statutes.*
- B. A construction site permit and the written consent of the manufactured home park owner or operator shall be required for erecting, altering or moving any structure. No person shall erect, alter or move any structure or part thereof, including, but not limited to, new or replacement manufactured homes, additions, decks or accessory structures in a manufactured home park.
- C. Additions or decks shall be adjacent to, but not structurally attached to, the manufactured home.
- D. No accessory building or non-structurally attached addition shall be used as a residential dwelling unit or contain plumbing.

**9.14.8 Review Procedures**

- A. All informational elements as required in *Stearns County Ordinance Number 203; or successor ordinances* shall be submitted to the Director in accordance with the normal time schedule outlined for zoning district amendments, whether or not the proposal requires a rezoning. Proposals for manufactured home park expansions on properly zoned land shall be reviewed for compliance with the applicable standards and requirements contained in this Ordinance and *Stearns County Ordinance Number 203; or successor ordinances*.
- B. The manufactured home owner or operator shall obtain certification from a building official licensed in the State of Minnesota that the anchoring requirements of the State of Minnesota Uniform Building Code and the seal requirements of *Minnesota Statutes, section 327.21, subdivision 3; or successor statutes*, have been met for replacement and new manufactured homes and submit said certification to the Department upon request.

**9.14.9 Setback Requirement**

- A. Minimum Building Setback from park property line

- (1) Side 10 feet
- (2) Rear 30 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
*THE MORE RESTRICTIVE SETBACK SHALL APPLY.		

**9.14.10 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent in the shoreland district and up to sixty (60) percent outside any shoreland district.

**9.14.11 Height Requirements**

Buildings shall not exceed twelve (12) feet in height, except as provided in *Sections 7.14 and 9.14.4A(3) of this Ordinance*.

**9.14.12 Site Density for Manufactured Home Parks in the Shoreland District**

The number of manufactured homes allowed within a manufactured home park shall not exceed the total number permitted in *Section 10.2.8 of this Ordinance*.

**9.14.13 Relationship to Orderly Annexation Agreement**

If property in the Residential Manufactured Home District lies within an area subject to an Orderly Annexation Agreement (OAA) which has been formally adopted by a township and city, the provisions of the OAA shall supersede the provisions of *Section 9 of this Ordinance* if they cover the same subject matter. For example, if the OAA specifically defines permitted uses to be allowed, the OAA listed uses supersede the permitted uses in *Section 9.14.2 of this Ordinance*; or, if the OAA is silent on lot coverage requirements, then the provisions in *Section 9.14.10 of this Ordinance* shall apply. All subdivision applications in the Residential Manufactured Home District and an area subject to an OAA shall be reviewed for consistency with the OAA by both the Township and the City affected.



## **9.15 Urban Expansion District (UE District)**

### **9.15.1 Purpose**

The purpose of this district is to enable the orderly and efficient staging of urban services, including wastewater, water, electric, gas, roads and communications in those areas where cities and townships have entered into an orderly annexation agreement (OAA). Urban services are extended more efficiently and land use patterns are more coherent when cities can grow without being hindered by large lot residential or commercial development. Residential development may only be allowed at a low density, not to exceed one residence per forty (40) acres and agriculture is the primary and preferred land use until annexation.

This district is intended to meet the goals of the Stearns County Comprehensive Plan by limiting barriers to efficient growth of cities and encouraging joint planning between cities and townships and is specifically directed by the following Stearns County Comprehensive Plan goals:

- A. Manage the impacts of growth and development on the County's rural character (Land Use Goal 3).
  - (1) Deter premature development in rural areas and in urban expansion areas around cities (Objective 3).
- B. Use existing infrastructure and resources efficiently (Land Use Goal 5).
  - (1) Coordinate infrastructure expansion with development; and encourage development where the infrastructure is adequate to serve that growth (Objective 1).

### **9.15.2 Relationship to Orderly Annexation Agreement**

The Urban Expansion District regulates areas of Stearns County adjacent to incorporated municipalities in areas also subject to an Orderly Annexation Agreement (OAA) except those areas within Commercial, Industrial and Residential Manufactured Home districts. If an Orderly Annexation Agreement has been formally adopted by a township and city, the provisions of the OAA shall supersede the provisions of *Section 9 of this Ordinance* if they cover the same subject matter. For example, if the OAA specifically defines permitted uses to be allowed, the OAA listed uses supersede the permitted uses in *Section 9.15.3 of this Ordinance*; or, if the OAA is silent on lot coverage requirements, then the provisions in *Section 9.15.14 of this Ordinance* shall apply. All subdivision applications in the UED district shall be reviewed for consistency with the OAA by both the Township and the City affected.

### **9.15.3 Permitted Uses**

The following uses are permitted subject to any applicable performance standards and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Agricultural operations

- B. Animal feedlots, if not prohibited under the orderly annexation agreement, and subject to the provisions of *Section 6.7 of this Ordinance*
- C. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- D. Essential services, transmission services and utility substations
- E. Family day care
- F. Group family day care
- G. Licensed residential program
- H. Licensed nonresidential program
- I. Public and private forest and game management areas
- J. Public parks and trails
- K. Seasonal produce stands which are accessory to agricultural operations
- L. Signs- non-commercial, on premise, subject to the conditions of *Section 7.25 of this Ordinance*
- M. Single family residential dwelling unit
- N. Wind energy conversion systems (less than 6kw)
- O. Any permitted land use expressly allowed under the terms of the orderly annexation agreement between the township and the city.

#### **9.15.4 Provisional Uses**

The following uses are provisional uses subject to the performance standards and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Bed and Breakfast Inns
- B. Government administrative and service buildings
- C. Greenhouses and nurseries
- D. Home extended businesses
- E. Home occupations
- F. One (1) temporary single family dwelling unit accessory to an agricultural operation
- G. Outdoor recreational facilities
- H. Temporary use sites in licensed resorts and campgrounds
- I. Temporary uses/special events
- J. Any provisional land use expressly allowed under the terms of the orderly annexation agreement between the township and the city.

#### **9.15.5 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance standards and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory agricultural buildings subject to the conditions of *Section 6.1 of this Ordinance*
- B. Accessory residential buildings subject to the conditions of *Section 6.2 of this Ordinance*
- C. Kennels – private
- D. Solar energy systems – accessory
- E. Structures related to public airports
- F. Swimming pools



- G. Any accessory uses expressly allowed under the terms of the orderly annexation agreement between the township and the city.

#### **9.15.6 Conditional Uses**

The following uses may be allowed as conditional uses following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Accessory structures subject to the conditions of *Section 6.1, 6.2 and 7.33 of this Ordinance*
- B. Agriculturally oriented businesses
- C. Animal feedlot expansions and modifications permitted by and subject to the provisions of *Section 6.7 of this Ordinance*
- D. Antennae subject to the conditions of *Section 7.28 of this Ordinance*
- E. Cemeteries
- F. Churches
- G. Community buildings
- H. Commercial businesses, if allowed under the terms of the orderly annexation agreement.
- I. Concrete (ready mix) or asphalt mixing facility, permanent
- J. In-vessel composting facility or mortality incinerator
- K. Limited rural business
- L. Motor vehicle repair – accessory
- M. Schools-public or private
- N. Storage facilities, accessory agricultural building
- O. Transmission services
- P. Truck terminal – small
- Q. Wastewater treatment facilities
- R. Wind energy conversion systems (6kw to 40 KW)
- S. Any conditional land use expressly allowed under the terms of the orderly annexation agreement between the township and the city.

#### **9.15.7 Interim Use Permits**

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 4.18 of this Ordinance* and further subject to the performance standards and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Animal feedlots. New animal feedlots with less than 10 animal units in shoreland
- B. Animal feedlots. Re-established animal feedlots in shoreland
- C. Concrete (ready mix) or asphalt mixing facility, temporary
- D. Migrant and/or seasonal worker housing
- E. Mining
- F. Secondary single family residential dwelling unit that is to be located in the existing farmyard
- G. Temporary single family residential dwelling unit for supportive care

- H. Vacation/private home rental
- I. Any interim land use expressly allowed under the terms of the orderly annexation agreement between the township and the city.

#### **9.15.8 Residential Density Requirements**

- A. One unit per forty (40) acres. Only one (1) single family residential dwelling unit shall be allowed per forty (40) acres.
- B. Residential density may be greater than one (1) unit per forty (40) acres if the Orderly Annexation Agreement specifically provides for a higher density.

#### **9.15.9 Standard for Determining Permitted Residential Dwelling Sites**

- A. Determining Parcels of Record. Certain parcels of record purchased under separate deed and not containing 40 acres may be allowed as residential building sites and shall be determined as follows:
  - (1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on April 21, 2000, but was purchased under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with other tracts or parcels for the purpose of determining the number of permitted residential dwelling sites.
  - (2) Any non-contiguous tract or parcel that is in common ownership on April 21, 2000, but was purchased under separate deed prior to April 21, 2000, shall be considered a parcel of record pursuant to *Section 5.1.3 A of this Ordinance* and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein as a parcel of record may be combined with any other tract or parcel for the purpose of determining the number of permitted residential dwelling sites.
- B. Any tract or parcel that is in common ownership and was recorded under the same deed with any other tract or parcel shall not be considered a parcel of record unless one or more of the following apply:
  - (1) Parcels were non-contiguous prior to April 21, 2000; or
  - (2) A residential dwelling unit existed on each parcel prior to April 21, 2000; or
  - (3) Total consideration of the most recent property transfer was less than \$1000.
- C. Eligible forty (40) acre parcels. An eligible forty (40) acre tract shall be any tract that does not contain any existing residential dwelling and meets one of the following:
  - (1) The tract contains forty (40) acres more or less and is described, for example, as the SW ¼, SW ¼ according to the Government Land Office survey grid system.

- (2) The tract is described as an entire Government Lot and contains at least thirty five (35) acres.
  - (3) The tract contains forty (40) acres or more and is described by metes and bounds description. The right of way of any public road adjacent to and included in the description of said tract may be used for the forty (40) acre calculation.
- D. Calculating residential dwelling eligibility. Determining eligibility for a residential dwelling site shall be as follows:
  - (1) The property owner's total acreage owned within the Urban Expansion District, less and except land under the OHWL, shall be calculated.
  - (2) In the absence of a certificate of survey, the acreage listed in the Stearns County Auditor-Treasurer's Office property transfer records shall be used.
  - (3) Forty (40) acres for each existing residential dwelling and any equivalent land area previously restricted under provisions of *this Ordinance and/ or Stearns County Subdivision Ordinance Number 230; or successor ordinance*, shall be subtracted from the total acreage owned.
  - (4) The results from 1 and 2 above shall be divided by forty (40) acres and the quotient will be the number of eligible divisions that are permitted for the parcel. Decimals of less than .8 shall be reduced to the nearest whole number and decimals of .8 or greater shall be increased to the nearest whole number.
- E. Subdivisions that are for agricultural or other purposes and do not increase the density of the number of residential building sites shall be allowed. The deed shall be accompanied by a Declaration of Restriction stating that the conveyance is for agricultural or other purposes which do not increase residential dwelling site density and that the property being conveyed shall not be used in the calculation of any permitted residential dwelling site division pursuant to *Section 9.15.8 of this Ordinance*.
- F. The owners of an eligible parcel who execute a residential division for use as a residential dwelling site shall execute a Declaration of Restriction for a forty (40) acre equivalent land area which is defined as forty (40) acres less the acreage of the residential dwelling site that is to be conveyed. The Declaration of Restriction shall prohibit any additional residential development of the equivalent land area unless rezoned. No property conveyance shall occur unless the Declaration of Restriction is first recorded in the Office of the County Recorder.
- G. The equivalent land area shall have frontage on a public road, or must be held in common ownership with contiguous land that has public road frontage. Any residual lot or parcel shall have access to a public road.

#### **9.15.10 Cluster Development**

Cluster development is allowed in the Urban Expansion District as provided for in *Section 7.4.1 of this Ordinance* with the following additional requirements.

- A. Purpose. The purpose of cluster development in the UED is to encourage residential subdivision design that concentrates small residential lots in a specific area and is therefore more conducive to future development at urban densities. In the UED, land area in cluster developments that is not developed for residential sites remains in agricultural production or open space uses until the area is annexed and developed at urban densities.
- B. Density Bonus. Cluster developments in the UED district are eligible for a fifty (50) percent increase in residential density. To be eligible for the density bonus, the provisions of *Section 7.4 and 9.15.10 of this Ordinance* shall be met.
- C. Lot Area Requirements. All residential lots within a cluster development in the Urban Expansion District shall be one (1) to one and one-half (1.5) acres in size, unless the lot is within the shoreland overlay district of a Natural Environment Lake. If the lot is within the shoreland overlay district of a Natural Environment Lake, the lot size shall be a eighty thousand (80,000) square feet as required by *Section 10.2.8(A)1 of this Ordinance*. The minimum lot size may be reduced, except within the shoreland overlay of a Natural Environment or Recreational Development Lake, to one-half (0.5) acre if a community subsurface sewage treatment system is installed. Lots created pursuant to *Section 9.15.10 of this Ordinance* after January 27, 2005 shall not be increased in size by means of an administrative subdivision or plat to exceed the maximum allowable lot size as specified in this paragraph.
- D. Location of structures. In the UED, consideration shall be given to the location of residential structures on lots in a cluster development. The location of structures shall be such that they will blend in to future urban development and not impede future resubdivision of the lot when urban services are available. For example, residential structures shall not be placed in the middle of a lot where a future lot line may logically be placed if the parcel is resubdivided; and residential structures shall be placed near the minimum front yard setback line in a manner similar to urban development.
- E. Ghost platting required. Ghost platting is required in cluster developments to facilitate the conversion of subdivisions from the UED district to urban development after annexation. The preliminary plat for a cluster development in the UED shall include a sketch plan of a subdivision of lots and public rights-of-ways depicting the future subdivision of the property at urban densities. The ghost plat sketch plan shall be consistent with the OAA. Lot sizes shall be similar to lot sizes planned in the OAA or with existing lot sizes of similar uses within the municipality. Public rights-of-ways shall be shown to connect with existing rights-of-ways or as extensions of the municipal street grid and shall connect to ghost-platted rights-of-way on adjacent parcels. See *Appendix E of this Ordinance* for an illustration of this requirement.
- F. Deed covenants. All lots within a cluster subdivision shall include a deed covenant disclosing that the reserved agricultural land or open space is intended for future development.

**9.15.11 Lot Requirements for Non-Cluster Development**

The following lot requirements shall apply unless expressly modified by the Orderly Annexation Agreement:

- A. Lots of Record less than forty (40) acres. A parcel of record that is determined as such pursuant to *Section 5.3.1 A of this Ordinance* that is less than forty (40) acres in size shall be allowed as a residential building site.
- B. Dimensional standards. The following standards shall apply to lots or tracts created in the Urban Expansion District:
  - (1) The minimum lot size for a single family residential dwelling shall be one (1) acre.
  - (2) The minimum median lot width shall be one hundred fifty (150) feet.
  - (3) For uses other than residential uses, the minimum lot size shall be sufficient to meet the applicable performance standards of *this Ordinance* for the proposed use and setback requirements of *Section 9.15.11 of this Ordinance* and the sewage treatment system standards of *this Ordinance*; or successor ordinance.
  - (4) The location of any lot in the Urban Expansion District that is to be used as a residential dwelling site shall be located so that the Residential Dwelling can meet the animal feedlot setback provisions of *Section 6.7.5 of this Ordinance*.
- C. Land uses restricted on small lots. In the Urban Expansion District only those uses that are allowed as permitted, provisional, interim, conditional or accessory in the R-1 zoning district shall be allowed on a lot or tract less than ten (10) acres in area, except that a home extended business shall be allowed as a provisional use pursuant to *Section 4.22 of this Ordinance*. Setbacks for the R-1 zoning district shall be applicable to these lots or tracts. Lots or tracts with an animal feedlot shall meet the standards as provided in *Sections 6.7 and 7.16 of this Ordinance*.

**9.15.12 Setback Requirements**

Except as provided in the Orderly Annexation Agreement, the following setback requirements shall apply:

- A. Setbacks. Minimum building setbacks are listed below:

- (1) Side 50 feet
- (2) Rear 50 feet
- (3) Front

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
Principal Arterial	150	75
Minor Arterial	120	60
Major Collector	100	50
Minor Collector	100	50
<b>Un-Classified Roads</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>

<b>Road Classification</b>	<b>Setback from Road Centerline*</b>	<b>Setback from Road Right-of-Way (R.O.W.)*</b>
County Road	100	50
Township Road	63	30
Private Road Esmt.	63	30
<b>*THE MORE RESTRICTIVE SETBACK SHALL APPLY.</b>		

- (4) Detached garages and accessory buildings may be placed ten (10) feet from the side lot line and ten (10) feet from the rear lot line.
- (5) For lots created after January 27, 2005, setbacks from Types 3, 4 and 5 wetlands shall be fifty (50) feet and twenty five (25) feet from all other wetlands.

B. Animal feedlots. If allowed under the Orderly Annexation Agreement, new and expanded animal feedlots and manure storage facilities shall meet the setback provisions of *Section 6.7.5 of this Ordinance* and all setbacks described in the OAA.

C. Residential setbacks from feedlots. All residential dwellings, in addition to meeting the minimum building setback requirements of *Section 9.15.11A of this Ordinance*, shall also comply with the residential setbacks from an Animal Feedlot as provided in *Section 6.7.5 A of this Ordinance*.

#### **9.15.13 Height Requirements**

- A. Building height limited. Buildings, other than agricultural buildings, shall not exceed thirty five (35) feet in height except as provided in *Section 7.14 of this Ordinance*.
- B. Agricultural exemption. Agricultural buildings shall be exempt from the height requirements.

#### **9.15.14 Lot Coverage**

The maximum lot coverage shall be twenty five (25) percent.

**9.16 Island Preservation District (IP District)****9.16.1 Purpose**

The purpose of this district is to provide for the preservation and management of islands that are located within the County. This district implements the following Stearns County Comprehensive Plan goals:

- D. Preserve important natural systems (Natural Resource Goal 1).
  - (1) Identify the suitability of natural systems and resources for development or use (Objective 1).
  - (2) Develop strong performance standards to preserve sensitive natural features and systems (Objective 2).
- E. Coordinate natural resource protection efforts with natural resource, land use planning, and development activities of state and federal agencies, cities, and townships (Natural Resource Implementation 1).

**9.16.2 Island Preservation District Boundaries**

The Island Preservation district shall apply to all islands within the county, whether shown or not shown on the zoning map, unless otherwise zoned.

**9.16.3 Permitted Uses**

The following uses are permitted subject to any applicable performance and general development standard contained in *Sections 6 and 7 of this Ordinance*:

- A. Antennas subject to the conditions of *Section 7.28 of this Ordinance*
- B. Essential services, transmission services and utility substations
- C. Public and private forest and game management areas
- D. Public parks and trails
- E. Limited agricultural uses

**9.16.4 Permitted Accessory Uses and Structures**

The following accessory uses and structures are permitted subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Residential accessory buildings
- B. Solar energy systems – accessory

**9.16.5 Provisional Uses**

The following uses are provisional uses subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Temporary uses/special events
- B. Outdoor recreation

**9.16.6 Conditional Uses**

The following use may be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Recreational Vehicle Parks and Campgrounds
- B. Transmission services

**9.16.7 Setback Requirements**

- A. Minimum Building Setbacks

- (6) Side 10 feet

- (7) Rear 10 feet

Buildings shall also comply with *Section 10.2.11A of this ordinance*.

**9.16.8 Height Requirements**

- A. Buildings shall not exceed thirty (30) feet in height, except as provided in *Section 7.14 of this Ordinance*.

**9.16.9 Keeping of Animals**

The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any lot, parcel or tract in the IP district.



## **SECTION 10      OVERLAY DISTRICT REGULATIONS**

### **10.1 Floodplain Overlay District**

#### **10.1.1 Purpose**

The purpose of this district is to regulate development in the flood hazard areas of Stearns County. The flood hazard areas are subject to periodic inundation and may result in potential loss of life and property, both of which affect the public health, safety and general welfare.

This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

#### **10.1.2 District Application**

The Floodplain Overlay District shall be an overlay district and shall be superimposed on all zoning districts; and the Floodplain Overlay District shall be all lands in the unincorporated areas of Stearns County located in the floodway area, flood fringe area and general floodplain area, which areas are described as follows:

- A. Floodway area. The Floodway Area shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 10.1.3. For lakes, wetlands and other basins, the Floodway Area shall include those areas designated as Zone AE that do not have a floodway designated and Zone A on the Flood Insurance Rate Map panels adopted in Section 10.1.3 that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- B. Flood fringe area. The Flood Fringe Area shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 10.1.3, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe Area shall include those areas designated as Zone AE that do not have a floodway designated and Zone A on the Flood Insurance Rate Map panels adopted in Section 10.1.3 that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- C. General floodplain area. . The General Flood Plain Area shall include those areas designated as Zone A and Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 10.1.3, which are not subject to criteria in 10.1.2(A) and (B) above.

The standards imposed in the Floodplain Overlay District shall be in addition to any other requirements set forth in *this Ordinance*. If the district standards are conflicting, the more restrictive standards shall apply.

**10.1.3 Incorporation by Reference**

The Flood Insurance Study for Stearns County, Minnesota and incorporated areas, dated February 16, 2012 prepared by the Federal Emergency Management Agency and the following flood insurance rate maps are hereby incorporated by reference and are on file at the Stearns County Environmental Services Office, St. Cloud, Minnesota:

A. Flood Insurance Study for Stearns County, Minnesota and incorporated areas, dated February 16, 2012 and prepared by the Federal Emergency Management Agency.

B. Flood Insurance Rate Maps with the following effective date of February 16, 2012.

Community	Panel Number
270145C	IND1A
270145C	IND2A
270145C	0025E*
270145C	0050E*
270145C	0065E
270145C	0070E
270145C	0100E
270145C	0125E
270145C	0150E*
270145C	0175E*
270145C	0190E
270145C	0195E
270145C	0225E*
270145C	0250E*
270145C	0255E
270145C	0260E
270145C	0275E
270145C	0280E
270145C	0285E
270145C	0287E
270145C	0290E
270145C	0291E
270145C	0295E
270145C	0325E
270145C	0350E
270145C	0375E
270145C	0380E
270145C	0385E
270145C	0390E*
270145C	0395E
270145C	0405E
270145C	0415E
270145C	0420E
270145C	0450E
270145C	0475E

270145C	0500E
270145C	0525E
270145C	0550E
270145C	0575E*
270145C	0600E
270145C	0605E
270145C	0610E
270145C	0615E
270145C	0620E
270145C	0626E
270145C	0627E
270145C	0628E
270145C	0629E
270145C	0631E
270145C	0633E
270145C	0675E*
270145C	0700E*
270145C	0725E
270145C	0750E
270145C	0763E
270145C	0764E
270145C	0765E*
270145C	0770E
270145C	0775E
270145C	0780E
270145C	0781E
270145C	0782E*
270145C	0783E
270145C	0784E
270145C	0790E
270145C	0791E
270145C	0792E
270145C	0793E
270145C	0794E
270145C	0803E
270145C	0804E
270145C	0805E*
270145C	0810E
270145C	0811E
270145C	0812E
270145C	0815E*
270145C	0820E
270145C	0840E*
270145C	0845E*
270145C	0860E
270145C	0865E*
270145C	0870E*
270145C	0880E

270145C	0885E*
270145C	0890E
270145C	0895E
270145C	0910E
270145C	0930E
270145C	0935E
270145C	0950E*
270145C	0955E
270145C	0960E
270145C	1000E*
270145C	1005E*
270145C	1010E*
270145C	1015E*
270145C	1020E
270145C	1030E
270145C	1035E
270145C	1040E
270145C	1045E
270145C	1055E

(\*) denotes that they are not printed panels due to absence of Special Flood Hazard Areas.

#### **10.1.4 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.

#### **10.1.5 Floodplain Overlay District Areas**

The Floodplain Overlay District shall be divided into areas as follows:

- A. Floodway Area. The Floodway Area shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 10.1.3. For lakes, wetlands and other basins, the Floodway Area shall include those areas designated as Zone AE that do not have a floodway designated and Zone A on the Flood Insurance Rate Map panels adopted in Section 10.1.3 that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- B. Flood Fringe Area. The Flood Fringe Area shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 10.1.3, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe Area shall include those areas designated as Zone AE that do not have a floodway designated and Zone A on the Flood Insurance Rate Map panels adopted in Section 10.1.3 that are below the 1% annual chance flood elevation

(100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

- C. General Floodplain Area. The General Flood Plain Area shall include those areas designated as Zone A and Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 10.1.3, which are not subject to criteria in 10.1.2(A) and (B) above.

#### **10.1.6 Determination of Floodplain Overlay District Area Boundaries**

The boundaries of the Floodplain Overlay District areas shall be determined by scaling distances on the Flood Insurance Rate Map. Where interpretation is needed as to the exact location of the boundaries of the district areas as shown on the Flood Insurance Rate Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Director pursuant to *Section 4.9 of this Ordinance*, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations of the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district area boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

#### **10.1.7 Floodway Area Standards**

- A. Permitted Uses. The following uses, subject to the standards for floodway permitted uses set forth in *Section 10.1.7 B of this Ordinance*, are permitted uses if otherwise allowed in the primary zoning district or any applicable overlay district:
  - (1) Industrial or commercial loading areas, parking areas and airport landing strips
  - (2) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas and single or multiple purpose recreational trails
  - (3) Production of crops, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting
  - (4) Residential lawns, gardens, parking areas and play areas
- B. Standards for floodway area permitted uses:
  - (1) The use shall have low flood damage potential.
  - (2) The use shall be permitted in the primary zoning district and any applicable overlay district.
  - (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

- C. Conditional uses. The following uses may be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the standards contained in *Section 10.1.7 D and Sections 6 and 7 of this Ordinance*, if otherwise allowed in the primary zoning district or any applicable overlay district:
- (1) Accessory structures that are accessory to the uses permitted in *Sections 10.1.7 A and 10.1.7 C of this Ordinance*
  - (2) Extraction and storage of sand, gravel and other materials
  - (3) Marinas, boat rentals, docks, piers, wharves and water control structures
  - (4) Placement of fill
  - (5) Railroads, streets, bridges, utility transmission lines and pipelines
  - (6) Storage yards for equipment, machinery or materials
  - (7) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and agricultural crops for a frequency flood event equal to or less than the ten (10) year frequency flood event
  - (8) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the provisions of *Section 10.1.14 of this Ordinance*
- D. Standards for floodway area conditional uses:
- (1) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other uses may be allowed as a conditional use if it will cause any increase in the stage of the one hundred (100) year or regional flood or cause an increase in flood damages in the reach or reaches affected.
  - (2) Filling shall be subject to the following standards:
    - (a) Fill, dredge spoils and all other similar materials deposited or stored in the floodway area shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
    - (b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway area unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
    - (c) As an alternative, and consistent with *Section 10.1.7 D (2)(b) of this Ordinance*, dredge spoil disposal and sand and gravel operations may be allowed temporary on-site storage of fill or other materials which would have caused an increase to the stage of the one hundred (100) year or regional flood, but only after the Board has an appropriate plan assuring the removal of the materials from the floodway area based upon the flood warning time available.
  - (3) Accessory structures shall be subject to the following standards:

- (a) Accessory structures shall not be designed or used for human habitation.
- (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters provided:
  - (i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - (ii) Whenever possible, structures shall be placed approximately on the same flood flow as those of adjoining structures.
- (c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the *FP-1 or FP-2 flood proofing classifications in the State Building Code*. As an alternative, an accessory structure may be flood proofed to the *FP-3 or FP-4 flood proofing classification in the State Building Code*, provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size at its largest projection, and for a detached garage, must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
  - (i) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
  - (ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.
  - (iii) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (4) Storage of materials and equipment shall be subject to the following standards:
  - (a) The storage or processing of material that is, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life shall be prohibited.
  - (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available

after a flood warning and in accordance with a plan approved by the Board.

- (5) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of *Minnesota Statute, chapter 103G; or successor statute*. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the Floodway Area.
  - (6) A levee, dike or floodwall constructed in the Floodway Areas shall not cause an increase to the one hundred (100) year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- E. Prohibited Uses
- (1) Sand blankets located above the ordinary high water level shall be prohibited.
  - (2) Biofuels processing, distillation or refining shall be prohibited.
  - (3) Fences

#### **10.1.8 Flood Fringe Area Standards**

- A. Permitted uses. Permitted uses shall be those uses that are permitted in the primary zoning district and any applicable overlay district. All permitted uses shall comply with the standards for flood fringe area permitted uses listed in *Section 10.1.8 B of this Ordinance* and the standards for all flood fringe area uses listed in *Section 10.1.8 E of this Ordinance*.
- B. Standards for flood fringe area permitted uses:
- (1) All structures, including accessory structures, shall be elevated on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
  - (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet at its largest projection may be internally flood proofed in accordance with *Section 10.1.7 D. (3) (c) of this Ordinance*.
  - (3) The cumulative placement of more than one thousand (1,000) cubic yards of fill on a parcel shall only be permitted as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with *Section 10.1.8 B. (1) of this Ordinance*.
  - (4) The storage of any material or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- C. Conditional uses. The following uses may be allowed as a conditional use following the procedure set forth in *Section 4.8 of this Ordinance*



and further subject to the standards contained in *Section 10.1.8 D*, *Section 10.1.8 E* and *Sections 6 and 7 of this Ordinance*, otherwise allowed in the primary zoning district or any applicable overlay district:

- (1) Any structure that is not elevated on fill in accordance with *Section 10.1.8 B. (1) of this Ordinance*.
  - (2) Any structure that is floodproofed, except for accessory structures as described in *Section 10.1.8 B. (2) of this Ordinance*.
  - (3) Storage of any material or equipment below the regulatory flood protection elevation.
  - (4) The cumulative placement of more than one thousand (1,000) cubic yards of fill when the fill is not being used to elevate a structure.
- D. Standards for flood fringe area conditional uses:
- (1) Alternative elevation methods, other than the use of fill, may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
    - (a) The enclosed area is above-grade on at least one side of the structure;
    - (b) It is designed to internally flood and is constructed with flood resistant materials; and
    - (c) Is used solely for parking of vehicles, building access or storage.
    - (d) The above-noted alternative elevation methods are subject to the following additional standards:
      - (aa) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code. Specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and any other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
      - (bb) Specific standards for above grade, enclosed areas. Above grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
        - (aaa) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two 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 automatic openings shall 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. Openings may be equipped with screens, louvers, valves or other covering or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention.

(bbb) The enclosed area shall be designed of flood resistant material in accordance with the *FP-3 or FP-4 classifications in the State Building Code* and shall be used solely for building access, parking of vehicles or storage.

- (2) Basements shall be subject to the following:
  - (a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - (b) Non-residential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry flood proofed in accordance with *Section 10.1.8 D (3) of this Ordinance*.
- (3) All areas of non residential structures, including basements to be placed below the regulatory flood protection elevation, shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the *FP-1 or FP-2 flood proofing classification in the State Building Code*. This requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the *FP-3 or FP-4 classification of the State Building Code* shall not be permitted.
- (4) Storage of materials and equipment:
  - (a) The storage or processing of material that is, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
  - (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Board.

E. Standards for all flood fringe area uses:

- (1) Principal structures. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a

variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- (2) Commercial uses. Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
- (3) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood duration. Certain accessory land uses, such as yards and parking lots, may be at lower elevations subject to requirements set out in *Section 10.1.8 E (2) of this Ordinance*. In considering permit applications, due consideration shall be given to the needs of an industry whose business requires that it be located in flood plain areas.
- (4) Fill. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (5) Flood plain development. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway area or other encroachment limit has not been specified on the Official Zoning Map.
- (6) Manufactured homes. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

F. Prohibited uses

- (1) Sand blankets located above the ordinary high water level shall be prohibited.
- (2) Biofuels processing, distillation or refining shall be prohibited.

**10.1.9 General Floodplain Area and Zone A Lakes****A. General Flood Plain Area:****(1) Permissible Uses:**

- (a) The uses listed in Section 10.1.7(A) of this Ordinance shall be permitted uses.
- (b) All other uses shall be subject to the 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe determinations criteria pursuant to Sections 10.1.9 A(2) and B below. Section 10.1.7 shall apply if the proposed use is in the Floodway Area and Section 10.1.8 shall apply if the proposed use is in the Flood Fringe Area.

**(2) Procedures for 1% annual chance flood (100-Year Flood Elevation) and/or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain Area:**

- (a) Upon receipt of an application for a permit or other approval within the General Flood Plain Area, the applicant shall be required to furnish such of the following information as is deemed necessary by the Director for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe Area.
  - (aa) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - (bb) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
  - (cc) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
  - (dd) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

- (b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe Area and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation

methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (aa). Estimate the peak discharge of the regional flood.
  - (bb). Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - (cc). Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (c) The Director shall present the technical evaluation and findings of the designated engineer or expert to the Board. The Board must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe Area boundary or deny the permit application. The Board, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Area Boundaries have been determined, the Director shall process the permit application consistent with the applicable provisions of Section 10.1.7 and 10.1.8 of this Ordinance.

(3) Prohibited Uses:

- (a) Sand blankets located above the ordinary high water level shall be prohibited.
  - (b) Biofuels processing, distillation or refining shall be prohibited.
- B. Zone A Lakes: Procedures for determining 1% annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:
- (1) Upon receipt of an application for a permit or other approval within a Zone A, the Director will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Director for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.
  - (2) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe Area and to determine the 1% annual chance flood elevation (100-year flood

elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

- (3) Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Director shall process the permit application consistent with the applicable provisions of Section 10.1.7 and 10.1.8 of this Ordinance.

#### **10.1.10 Subdivision Review and Approval Criteria**

- A. No land shall be subdivided which is unsuitable for the reasons of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the Flood Plain Overlay District shall contain a building site outside of the Floodway Area at or above the regulatory flood protection elevation. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the floodway area and flood fringe area boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. All lots shall have a building site outside the general flood plain area, unless the procedures established in *Section 10.1.9 of this Ordinance* are followed to determine the one hundred (100) year flood elevation, the floodway area and flood fringe area boundaries and the regulatory flood protection elevation for the subdivision site.

#### **10.1.11 Removal of Special Flood Hazard Area Designation**

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

#### **10.1.12 Utilities, Railroads, Roads and Bridges**

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with standards contained in *Minnesota Rules, part 6120.5800; or successor rule.*

**10.1.13 Manufactured Homes and Manufactured Home Parks**

- A. New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions in *Section 10.1.10 of this Ordinance*.
- B. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain will be treated as a new structure and may be placed only if elevated in compliance with *Section 10.1.8 B of this Ordinance*. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with *Section 10.1.8 E. (1) of this Ordinance*, then replacement manufactured homes will not be allowed until the property owner(s) develop(s) a flood warning emergency plan acceptable to the Board.
- C. All manufactured homes shall be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

**10.1.14 Recreational Vehicles**

- A. Recreational vehicles that do not meet the exemption criteria specified in *Section 10.1.14 B of this Ordinance* shall be subject to the provisions of this Ordinance and as specifically spelled out in *Sections 10.1.14 D and 10.1.14 E of this Ordinance*.
- B. Exemption. Recreational vehicles are exempt from the provisions of *Section 10.1 of this Ordinance* if they are placed in any of the areas listed in *Section 10.1.14 C of this Ordinance* and further that they meet the following criteria:
  - (1) Have current licenses required for highway use; and
  - (2) Are highway-ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it; and
  - (3) The recreational vehicle and associated use must be permitted in the primary zoning district and any applicable overlay district.
- C. Areas exempted for placement of recreational vehicles:
  - (1) Individual lots or parcels of record.
  - (2) Existing commercial recreational vehicle parks or campgrounds.
  - (3) Existing condominium type associations.
- D. Recreational vehicles exempted in *Section 10.1.14 B of this Ordinance* lose this exemption when development occurs on the parcel exceeding five hundred (500) dollars, as determined by the Stearns County Assessor, for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures shall then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the land use standards set forth in *Sections 10.1.7 or 10.1.8 of this Ordinance*. There shall be no

development or improvements on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

- E. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
- (1) Any new or replacement recreational vehicle may be allowed in the floodway or flood fringe areas provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with *Section 10.1.8 E (1) of this Ordinance*. No fill placed in the floodway area to meet the requirements of this Section shall increase flood stages of the one hundred (100) year or regional flood.
  - (2) Any new or replacement recreational vehicles not meeting the criteria in *Section 10.1.14 E (1) of this Ordinance*, may, as an alternative, be allowed as a conditional use if in accordance with the following provisions:
    - (a) The applicant shall submit an emergency plan for the safe evacuation of all vehicles and people during the one hundred (100) year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of *Section 10.1.14(B) (1) and (2) of this Ordinance* will be met .
    - (b) All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles shall be protected or constructed so as to not be impaired or contaminated during times of flooding.

#### **10.1.15 Certification of Elevations**

Applicants shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. A registered engineer or registered architect shall certify flood-proofing measures.

#### **10.1.16 Record of First Floor Elevation**

The Director shall maintain records of the elevations of the lowest floors (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Director shall also maintain records of the elevations to which structures or alterations and additions to structures are flood-proofed.



**10.1.17 Flood Insurance Notice and Record Keeping**

The Director shall notify the applicant for a variance that:

- A. 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
- B. Such construction below the one hundred (100) year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The Director shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**10.1.18 Disclaimer of Liability**

This Ordinance does not imply those areas outside of the floodplain district or land uses permitted within the floodplain district will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the County of Stearns or any officer or employee thereof for any flood damages that result from reliance upon this Ordinance or any administrative decision lawfully made hereunder.

**10.1.19 Floodplain Nonconformities**

Nonconforming uses, structures and lots within the Floodplain Overlay District shall be managed in accordance with *Section 5 of this Ordinance*.

**10.1.20 Detachments:**

The Flood Insurance Rate Map panels adopted by reference into *Section 10.1.3 of this Ordinance* include floodplain areas that currently lie within the corporate boundaries of cities in Stearns County at the time of adoption of this Ordinance. If any of these floodplain land areas are detached from a city after the date of adoption of this Ordinance and come under the jurisdiction of Stearns County, the newly detached floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of detachment from a city.

**10.1.21 Permit Requirements:**

- A. Permit Required. A Permit issued by the Director in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- B. State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Director shall

determine that the applicant has obtained all necessary state and federal permits.

- C. Notifications for Watercourse Alterations. The Director shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- D. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Director shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

**10.1.22 On-site Sewage Treatment and Water Supply Systems:**

Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

## 10.2 Shoreland Overlay District

### 10.2.1 Purpose

The purpose of the Shoreland Overlay District is to protect and enhance the quality of surface waters by promoting the wise utilization of public waters and related land resources. All land within Shoreland located in Stearns County is hereby designated as Shoreland Overlay District and the standards set forth in this Section shall regulate development and other activities within the Shoreland Overlay District.

### 10.2.2 District Application

The Shoreland Overlay District shall be an overlay district and shall be superimposed on all zoning districts and the Shoreland Overlay District shall be the shoreland of the public water bodies as classified in *Section 10.2.3 of this Ordinance*. The standards contained in the Shoreland Overlay District shall be in addition to any other requirements set forth in this Ordinance. If the district standards are conflicting, the more restrictive standards shall apply. The boundaries of the Shoreland Overlay District are defined as follows:

- A. One thousand (1,000) feet from the ordinary high water level of the classified lakes as listed in *Section 10.2.3 of this Ordinance*.
- B. Three hundred (300) feet from the ordinary high water level or the lateral extent of the floodplain when the floodplain extends beyond three hundred (300) feet from the ordinary high water level of the classified rivers and streams as listed in *Section 10.2.3 of this Ordinance*.

### 10.2.3 Shoreland Classification System

The public waters and public waters wetlands of Stearns County, Minnesota have been classified below consistent with the criteria found in *Minnesota Rules, part 6120.3000; or successor rule, and the Protected Waters Inventory Map for Stearns County, Minnesota*.

- A. The shoreland area for the waterbodies listed in *Sections 10.2.3 of this Ordinance* shall be subject to the standards of the Shoreland Overlay District.
- B. Stearns County Lakes

Township	No.	Name	Section(s)	Classification
Albany	137	Engelmeier (Rushmeyer)	18,24	Natural Environment
	175	Sand	3,34	Natural Environment
	177	North	15	Recreational Development
	178	Schwinghammer	15	Natural Environment
	180	Fifth	35	Natural Environment
Ashley	287	---	1	Natural Environment
	288	---	11	Natural Environment
	290	---	29	Natural Environment
	291	---	30	Natural Environment
	292	---	32	Natural Environment

<b>Township</b>	<b>No.</b>	<b>Name</b>	<b>Section(s)</b>	<b>Classification</b>
Avon	293	---	33	Natural Environment
	117	Big Spunk (Upper Spunk)	5, 32, 33	Recreational Development
	118	Pelican	5, 7, 8	Recreational Development
	119	Little Pine	7	Natural Environment
	120	Little Pelican	8, 9	Natural Environment
	121	---	16	Natural Environment
	122	Ochotto	21, 22	Natural Environment
	123	Lower Spunk	21, 28	General Development
	124	Kepper	22, 23, 26	Natural Environment
	125	Achman	25	Natural Environment
	126	Anna	26, 27	Natural Environment
	127	Linneman	27, 28, 33, 24	Natural Environment
	128	Middle Spunk	28, 29	General Development
	129	Minnie	28, 33	Recreational Development
	130	---	34	Natural Environment
Brockway	136	Pine	7, 12	Natural Environment
	73	---	14	Natural Environment
	74	---	30	Natural Environment
Collegeville	75	Shepard	31	Natural Environment
	91	Stump	1, 2	Natural Environment
	92	Sagatagan	1, 12	Natural Environment
	93	Plueger	2, 11	Natural Environment
	94	---	3, 10	Natural Environment
	95	---	SE 4, 9	Natural Environment
	96	Schuman	SW 4, 9	Natural Environment
	97	Kreigle	5	Recreational Development
	98	Pitts	7	Natural Environment
	99	Minnie	7, 18	Natural Environment
	100	Kalla (Thomas)	8	Natural Environment
	101	Schmid	9	Natural Environment
	102	Big Watab	9, 16, 21	Recreational Development
	103	Dullinger	13	Natural Environment
	104	Island	13, 14	Recreational Development
	105	Long	14	Natural Environment
	106	Big Fish	20, 21, etc.	Recreational Development
	107	Long	20, 29	Recreational Development
	108	---	21	Natural Environment
	109	Little Watab	22, 23, 26, 27	Natural Environment
	110	---	31	Natural Environment
	112	Eagle	32	Natural Environment
	113	---	C 34	Natural Environment
	114	---	NE 34	Natural Environment
	115	---	35	Natural Environment
	116	---	3, 34	Natural Environment
	134	---	30, 31, 25, 26	Natural Environment
Crow Lake	278	Tamarack	17, 16, 20, 21	Natural Environment
	279	Crow	23, 27	Natural Environment
	280	---	28	Natural Environment
	281	Fish	32, 33	Natural Environment
	282	Halvorson	4, 5, 33	Natural Environment
	294	Grass	31	Natural Environment
Crow River		None		
Eden Lake	139	Long	1, 2, 11, 12	Recreational Development
	140	Mud (Flint)	2, 3	Natural Environment
	141	Long (Deep)	3	Natural Environment
	142	---	NC3	Natural Environment
	143	---	3, 4	Natural Environment
	144	Pirz	5, 6, 7, 8	Natural Environment
	145	Voss Slough	6	Natural Environment
	146	---	7	Natural Environment
	147	North Brown	11, 14	Recreational Development
	148	South Brown	13, 14, 23, 24	Natural Environment
	150	Eden	23, 24, 25, 26	Recreational Development
	151	Mud	26, 35	Natural Environment
	152	---	29	Natural Environment
	153	---	32	Natural Environment
	154	---	33	Natural Environment
	196	Rice	7, 8, 9, etc.	Recreational Development
	197	---	30, 31, 25	Natural Environment

<b>Township</b>	<b>No.</b>	<b>Name</b>	<b>Section(s)</b>	<b>Classification</b>
Fairhaven	14	Marie	4, 5, 8, 9	Recreational Development
	15	Otter	1, 2, 36	Recreational Development
	16	---	4, 9	Natural Environment
	17	---	12, 13	Natural Environment
	18	---	24, 25	Natural Environment
	19	---	36	Natural Environment
	20	Laura	27, 34	Natural Environment
	21	---	35, 36	Natural Environment
	22	Mund	1, 2, 35, 36	Natural Environment
	23	Beaver	5, 6, 31, 32	Recreational Development
Farming	135	Sand	6, 31, 1	Natural Environment
	160	Henn (Henry)	SE3	Natural Environment
	161	Mud	WC3	Natural Environment
	162	Egger	9	Natural Environment
	163	Lauer	9, 10	Natural Environment
	164	---	WC10	Natural Environment
	165	Jopp	NE10	Natural Environment
	166	Stearns (Koop)	13	Natural Environment
	167	Little Rice	13, 14	Natural Environment
	158	Big Rice	14, 22, 23	Natural Environment
	169	Kranz	16, 17	Natural Environment
	170	Backes	21	Natural Environment
	171	Mud	23, 24	Natural Environment
	172	Clear	23, 24	Natural Environment
	173	School	35, 36	Natural Environment
	174	---	36	Natural Environment
Getty	262	---	3, 4	Natural Environment
	263	Unger-Schloegel Slough	6	Natural Environment
	264	---	9	Natural Environment
	265	Isabelle	13, 14	Natural Environment
	266	---	15, 22, 23	Natural Environment
	267	Molitor	17	Natural Environment
	268	---	18, 19	Natural Environment
	269	---	26, 35	Natural Environment
Grove	238	---	1	Natural Environment
	239	Isabelle	8	Natural Environment
	240	---	11, 14	Natural Environment
	241	Black Oak	14, 15, 22	Natural Environment
	243	Marie	22, 23, 26, 27	Natural Environment
	244	Elrings (Ellering)	22, 27	Natural Environment
	245	---	20	Natural Environment
	247	---	31, 32	Natural Environment
	248	---	32	Natural Environment
Holding	138	Two Rivers	6, 19, 30, etc.	Recreational Development
Krain	181	---	5	Natural Environment
	182	---	5, 6	Natural Environment
	183	St. Anna	5, 6, 7, 8	Natural Environment
	184	---	14, 23	Natural Environment
	185	Vos	15, 22	Natural Environment
	188	---	19	Natural Environment
	189	---	24	Natural Environment
	190	Bear	26	Natural Environment
	191	Fish (Fish & Leitner)	26, 27	Natural Environment
	193	Beautiful	5, 32	Natural Environment
	194	---	31	Natural Environment
	195	---	32	Natural Environment
Lake George	257	---	22, 23, 26, 27	Natural Environment
	258	George	23-26, 36	Natural Environment
	259	---	EC24	Natural Environment
	260	---	SE24	Natural Environment
	261	---	2, 3, 35	Natural Environment
Lake Henry	237	Henry	10, 15	Natural Environment
Le Sauk	30	---	5	Natural Environment
	31	Watab	8, 17, 18	Natural Environment
	32	Davenport	28, 29	Recreational Development
	33	---	33, 34	Natural Environment
Luxemburg	78	---	1	Natural Environment
	79	Schackman	4, 5, 8, 9	Natural Environment
	80	School	15	Natural Environment
Lynden	1	Dallas	4	Natural Environment

<b>Township</b>	<b>No.</b>	<b>Name</b>	<b>Section(s)</b>	<b>Classification</b>
Maine Prairie	2	Feldges	4, 5	Natural Environment
	3	Maria	5, 6, 7, 8	Natural Environment
	4	Long	5, 8	Natural Environment
	5	Hinz	q7, 18	Natural Environment
	6	Crooked	8	Natural Environment
	7	Quinn	SE17	Natural Environment
	8	Hulbert	NC18	Natural Environment
	9	Lynden	19, 20, 29, 30	Natural Environment
	10	Bunt	31	Natural Environment
	11	Warner	33	Natural Environment
	12	Fuller	31, 36	Natural Environment
	13	---	31, 36	Natural Environment
	34	Willow	8, 9	Natural Environment
	35	School Section	1, 36	Natural Environment
	36	Carter	6, 31	Natural Environment
	37	Pearl	2, 3, 10	Recreational Development
	38	Carnelian	13, 24	Recreational Development
	39	---	15, 16	Natural Environment
	40	---	15, 22	Natural Environment
	41	---	18, 19	Natural Environment
	42	Island	19	Natural Environment
	43	Days	22, 27	Natural Environment
	44	Murray	26	Natural Environment
	45	---	26, 34, 35	Natural Environment
	46	Swamp	29, 32	Natural Environment
	47	---	30	Natural Environment
	48	Swamp	32, 31	Natural Environment
	49	Marty	3, 4	Natural Environment
	50	---	4, 5	Natural Environment
Melrose	76	Goodners	7, 8, 12, 13	Recreational Development
	249	Sylvia	1, 2	Recreational Development
	250	Clear	7	Natural Environment
	251	Melrose (Mill Pond)	34	Natural Environment
	252	Stub	32, 33	Natural Environment
	253	Hartnette	33, 34	Natural Environment
Millwood	255	Cedar	6, 1	Natural Environment
	256	---	19, 24	Natural Environment
	218	Freeport	2, 3, 34, 35	Recreational Development
	219	Lovell	1, 2	Natural Environment
	220	Mud	2	Natural Environment
	221	McKenny	8	Natural Environment
	222	---	10	Natural Environment
	223	---	WC14	Natural Environment
	224	---	NW14	Natural Environment
	225	---	15	Natural Environment
	226	Cedar	19, 20, 29, 30	Natural Environment
	227	---	19, 30	Natural Environment
	228	Wolf	20	Natural Environment
	229	Swamp	20, 21, 29	Natural Environment
	230	Stone	20, 29	Natural Environment
	231	Long	21, 29	Natural Environment
Munson	232	Rolling	22, 23	Natural Environment
	233	Kings	27, 28, 33, 34	Recreational Development
	234	Millwood	28, 29, 32, 33	Natural Environment
	235	---	31	Natural Environment
	236	---	33	Natural Environment
	328	Wolf	20	Natural Environment
	131	---	6, 1	Natural Environment
	132	Thein	19, 24	Natural Environment
	133	Cedar Island	30-32, 24-26	Recreational Development
	155	(Rothstein)	21	Natural Environment
	156	Becker	22-24, 26	Natural Environment
	157	Horseshoe	25, 26, 34-36	Recreational Development
	158	Schroeder (Blasius)	27	Natural Environment
	159	Big Lake	27-29, 32-34	Recreational Development
North Fork Oak	283	---	2	Natural Environment
	199	Sand	30, 31, 25, 26	Recreational Development
	208	Uhlenkolts	4, 8, 9, 14, 17	Recreational Development
	209	---	5, 8	Natural Environment
	210	Frevels	7, 18	Natural Environment

<b>Township</b>	<b>No.</b>	<b>Name</b>	<b>Section(s)</b>	<b>Classification</b>
	212	Oak	14, 15, 22, 23	Natural Environment
	213	---	15, 16	Natural Environment
	214	---	17	Natural Environment
	215	Maria	20, 21	Natural Environment
	216	Red Oak	23, 26	Natural Environment
	217	Getchell	26, 27, 34, 35	Natural Environment
Paynesville	200	Koronis	Various	General Development
	201	---	23	Natural Environment
	202	Rueben-Schmidt Slough	27, 34	Natural Environment
Raymond	277	---	19, 24	Natural Environment
	284	Sand	3, 34-36	Natural Environment
	285	Raymond	13	Natural Environment
	286	---	24, 25, 26	Natural Environment
Rockville	51	Pleasant	1, 2	Recreational Development
	52	Rockville	NE 10, 11	Natural Environment
	53	---	SE 10, 11	Natural Environment
	54	---	15	Natural Environment
	55	Grand	21, 28, 29	General Development
	56	---	22	Natural Environment
	57	Rausch	26, 27	Natural Environment
	58	---	27, 34	Natural Environment
	59	Mud	32, 33	Natural Environment
	60	---	33	Natural Environment
	61	---	36	Natural Environment
St. Augusta	24	---	7, 18	Natural Environment
	25	---	16	Natural Environment
	26	---	32	Natural Environment
	27	---	34	Natural Environment
	28	---	35	Natural Environment
St. Cloud	29	---	28	Natural Environment
St. Joseph	62	---	N16	Natural Environment
	63	---	S16	Natural Environment
	64	Kraemer	17, 18	Recreational Development
	65	Ketter	19, 30	Natural Environment
	66	---	20	Natural Environment
	67	---	25, 26, 35, 36	Natural Environment
	68	Mud	36	Natural Environment
St. Martin	204	Gravel	1	Natural Environment
	205	---	4, 5, 8, 9	Natural Environment
	207	---	12, 13	Natural Environment
St. Wendel	69	Swamp	20	Natural Environment
	70	Watab	25, 26, 35, 36	Recreational Development
	71	Lower Watab	26, 35	Natural Environment
	72	Rassier	34, 35	Natural Environment
	77	---	31, 36	Natural Environment
Sauk Centre	270	--	5, 6	Natural Environment
	271	---	8	Natural Environment
	272	---	13	Natural Environment
	273	McCormic	13, 14, 24	Natural Environment
	274	---	23, 24	Natural Environment
	275	---	5, 6, 31, 32	Natural Environment
	276	South Twin	36	Natural Environment
Spring Hill	254	---	18, 13	Natural Environment
Wakefield	81	---	2, 3	Natural Environment
	82	Schneider	20	Recreational Development
	83	Great Northern	20, 21, 28, 29	Recreational Development
	84	---	23, 24, 25, 26	Natural Environment
	85	Byer	24, 25	Natural Environment
	86	Knaus	27, 28	Recreational Development
	87	Kray	28	Recreational Development
	88	Bolfing	28, 29	Recreational Development
	89	Zumwalde	29, 30	Recreational Development
	90	Tschumperlin	32	Natural Environment
Zion	203	---	11, 12, 13, 14	Natural Environment

## C. Boundary Lakes

County	Lake No.	Lake Name	Classification
Wright	86-242	Wiegand	Natural Environment
Wright	86-243	Grass	Natural Environment
Wright	86-249	---	Natural Environment
Wright	86-252	Clearwater	Recreational Development
Wright	86-281	Caroline	Recreational Development
Wright	86-282	Louisa	General Development
Wright	86-284	Augusta	Recreational Development
Todd	77-19	Mary	Natural Environment
Todd	77-84	Big Birch	Recreational Development
Todd	77-89	Little Birch	Recreational Development
Todd	77-150	Sauk	Recreational Development
Pope	61-1	---	Natural Environment

## D. Classified Rivers

Classification	River	From	To
Transition	Mississippi	Border of Stearns and Morrison Counties	CSAH 2 bridge in Sec 6, T126N, R28W
Agriculture	Mississippi	CSAH 2 bridge in Sec 6, T126N, R28W	South section line, Sec 9 T125N, R28W
Urban	Mississippi	North section line, Sec 16 T125N, R28W	CSAH 7 bridge in Sec 13, T124N, R28W
Scenic	Mississippi	CSAH 7 bridge in Sec 13, T124N, R28W	Border of Stearns and Wright Counties
Agriculture	Sauk	Outlet of Sauk Lake in Sec 10 T126, R33W	Co Rd bridge in Sec 12, T125N, R33W
Urban	Sauk	West section line, Sec 34 T126N, R33W	Co Rd bridge in Sec 12, T125N, R33W
Agriculture	Sauk	Co Rd bridge in Sec 12 T125N, R33W	East section line, Sec 32 T125N, R32W
Transition	Sauk	West section line, Sec 33 T124N, R32W	East section line, Sec 23 T123N, R31W
Urban	Sauk	West section line, Sec 24 T123N, R31W	East section line, Sec 14 T123N, R30W
Agriculture	Sauk	West section line, Sec 13 T123N, R30W	Confluence with Mississippi R. In Sec 35, T125N, R28W
Transition	N. Fork Crow	Border of Pope & Stearns Counties (public ditch that is altered natural watercourse)	NE 1/4 Section 5, T124N, R35W
Agriculture	N. Fork Crow	North section line, Sec 22, T124N, R35W (public ditch that is altered natural watercourse)	Co Hwy 13 bridge, east section line, Sec 25, T124N R35W
Transition	N. Fork Crow	Co Hwy 13 bridge on west section line, Sec 30, T124N, R34W	Border of Kandiyohi & Stearns Counties
Agriculture	N. Fork Crow	Border of Kandiyohi & Stearns Counties	East section line, Sec 9 T122N, R32W
Transition	N. Fork Crow	West section line, Sec 10 T122N, R32W	Inlet of Rice Lake in Sec 24, T122N, R32W

## E. Classified Tributary Rivers and Streams

Name	Section	From Township	Range	Section	To Township	Range
South Branch Two River	24(Basin 137)	125	31	13	125	31
	8	126	30	35	127	30
Unnamed to S. Branch Two River	7 (Basin 118)	125	30	12	125	31
Unnamed to Sauk River	23	123	33	30	124	32
Unnamed to Sauk river	17	123	32	32	124	32
Unnamed to Sauk River	18	124	32	33	124	32
Unnamed to Sauk River	4	123	32	33	124	32
Unnamed to Sauk River	9	124	32	26	124	32
Unnamed tributary	14	124	32	24	124	32
Unnamed to Sauk River	11	123	32	6	123	31
Unnamed to Sauk River	17	124	31	6	123	31
Unnamed to Unnamed	16	124	31	29	124	31
Unnamed to Sauk River	34	124	31	10	123	31
Unnamed to Becker Lake	33	123	32	35	123	32
	19	123	31	22 (Basin 156)	123	31
Unnamed to Unnamed	31	123	31	29	123	31
Unnamed to Horseshoe Lake	35	122	31	36 (Basin 157)	123	31



Name	Section	From Township	Range	Section	To Township	Range
Unnamed tributary	15 (Basin 80)	122	30	36	122	31
Unnamed to Schneider Lake	36(Basin 173)	124	31	20 (Basin 82)	123	30
Kinzer Creek	3	122	30	27 (Basin 86)	123	30
Cold Spring Creek	15	123	30	14	123	30
Unnamed to Sauk River	7 (Basin 76)	122	29	9	123	29
Johnson Creek	8	122	28	7	123	27
Unnamed to Johnson Creek	30(Basin 482)	123	28	22	123	28
Unnamed to Johnson Creek	32	124	28	15	123	28
Plum Creek	11	122	28	36	123	28
	5 (Basin 3)	122	27	28	123	27
Unnamed to Plum Creek	8	122	27	5	122	27
Clearwater River	13	121	29	35	123	27
Unnamed tributary	27	122	30	35	122	30
Willow Creek	10	121	29	14	121	29
Spring Brook	12	121	29	7 (Basin 86-282)	121	28
Thiel Creek	5	121	28	7 (Basin 86-282)	121	28
Fairhaven Creek	29	122	28	5 (Basin 14)	121	28
Three Mile Creek	21	122	28	1 (Basin 86-252)	121	28
Sedan Brook	18	124	25	23	124	35
Unnamed tributary	13	124	35	20	124	34
Unnamed to Skunk River	16 (Basin 278)	123	35	10	123	35
Unnamed to N Fork Crow River	22	124	34	3	123	24
Unnamed to Two Rivers Lake	4	125	31	36 (Basin 138)	126	31
Unnamed to Two Rivers Lake	22 (Basin 185)	126	31	36 (Basin 138)	126	31
Krain Creek	10	126	31	19	126	30
Spunk Creek	14 (Basin 168)	124	31	33	127	29
Unnamed to Spunk Creek	15	126	30	26	126	30
Stony creek	15	126	29	7	126	28
Smart's Creek	17	126	28	20	126	28
Watab river	4	124	29	21	125	28
South fork Watab River	16 (Basin 102)	124	30	4	124	29
Unnamed to S Fork Watab River	17 (Basin 64)	124	29	17	124	29
North Fork Watab River	1 (Basin 91)	124	30	4	124	29
Unnamed to Watab River	26	126	29	26	126	29
	15	125	29	24	125	29
Unnamed to Watab River	1	125	29	20	125	28
Ashley Creek	18	126	35	36	127	35
	32	127	34	4 (Basin 77-150)	126	34
Unnamed to Silver Creek	31	127	35	34	127	35
Hoboken Creek	1	125	35	9 (Basin 77-150)	126	34
Unnamed to Hoboken Creek	3	125	35	24	126	35
Getty Creek	29 (Basin 389)	125	34	22	126	34
Unnamed to Sauk River	15 (Basin 266)	125	34	36	126	34
Unnamed to Sauk River	14 (Basin 572)	125	34	6	125	33
Unnamed to Sauk River	8	126	33	7	126	33
Adley Creek	2 (Basin 77-89)	126	33	36	126	33
Unnamed to Adley Creek	16	126	33	12	126	33
Unnamed to Sauk River	28(Basin 231)	126	32	31	126	32
Unnamed to Sauk River	17 (Basin 208)	125	32	18	125	32
Unnamed to Sauk River	4	124	34	34	125	34
	28	125	33	31	125	32
Unnamed to Sauk River	35	125	33	1	124	33
Getchell Creek	7 (Basin 183)	126	31	24	126	32
Stony Creek	2 (Basin 261)	124	34	24	124	33
Unnamed to Stony Creek	31	124	33	22	124	33
Unnamed to Sauk River	22	123	33	25	124	33
Unnamed to Unnamed	4	123	33	26	124	33
Unnamed to N Fork Crow River	11	124	34	11	123	34
Unnamed to N Fork Crow River	16	123	33	25	123	34
Unnamed to N Fork Crow River	21	123	33	31	123	33

Name	Section	From Township	Range	Section	To Township	Range
Unnamed to N Fork Crow River	5	122	32	9	122	32
Middle Fork Crow River	26 (Basin 279)	123	35	30	123	34
Unnamed to Mud Lake	24	122	32	25	122	32

#### F. Tributary Streams that are Designated Trout Streams

Name	Township	Range	Section(s)
Cold Spring Creek	123	30	14, 15
Fairhaven Creek	121	28	5
	122	28	29, 31, 32
Hanson Br. (Three-Mile)	122	28	21, 22, 25, 26, 27, 36
Kinzer Creek	123	30	27, 34
Luxemburg Creek	123	28	16, 17, 18, 19, 20, 21, 22, 30
Meyers Creek	122	28	4
	123	28	22, 27, 33, 34
Robinson Hill Creek	123	28	4, 9, 10, 15
	124	28	31, 32, 33
Smart's Creek	126	28	17, 18, 20
Spring Brook	121	28	7
	121	29	12
Thiel (Teal) Creek	121	28	5, 6, 8
Willow Creek (Meeker)	121	29	10, 11, 14

#### 10.2.4 Permitted and Provisional Uses

Except for the following, the only permitted or provisional uses allowed in the Shoreland Overlay District shall be those uses allowed as permitted or provisional in the primary zoning district:

- A. The use of any tract for commercial purposes at the adoption of this Ordinance shall be considered a permitted use regardless of the primary zoning district, except that any expansion, addition or change in use shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*.
- B. The use of any tract for resort purposes on or before the adoption of this Ordinance shall be considered a permitted use regardless of the primary zoning district, except that any expansion, addition or change in use of a resort shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the standards in *Sections 6, 7 and 10.2.23 D, E and F of this Ordinance*.
- C. The use of any tract within the shoreland of a Natural Environment Lake for industrial purposes at the time of adoption of this Ordinance shall be considered a permitted use regardless of the primary zoning district, except that any expansion, addition or change in use shall only be allowed as a conditional use following the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*.

- D. Recreational vehicles subject to the standards contained in *Section 10.2.11 G of this Ordinance*, except that two (2) or more recreational vehicles placed on a single lot or parcel shall be considered a commercial shoreland planned unit development and may only be approved if in accordance with the standards contained in *Section 10.2.22 of this Ordinance*.

#### **10.2.5 Permitted Accessory Uses and Structures**

Accessory uses and structures in the Shoreland Overlay District shall be the same as those accessory uses and structures allowed in the primary zoning district.

#### **10.2.6 Conditional Uses**

Except for the following, the only uses allowed as conditional uses in the Shoreland Overlay District shall be those conditional uses that are allowed in the primary zoning district. The following exceptions shall be subject to the procedures set forth in *Section 4.8 of this Ordinance* and further subject to the performance and general development standards contained in *Sections 6 and 7 of this Ordinance*:

- A. Recreational vehicle parks and campgrounds
- B. Additions, expansions or a change in use of an existing industrial use otherwise allowed under the provisions of *Section 10.2.4 C of this Ordinance*.
- C. Additions, expansions or a change in use of an existing resort otherwise allowed under the provisions of *Section 10.2.4 A and B of this Ordinance*.

#### **10.2.7 Residential Density Requirements**

The total number of single family residential dwelling units that may be permitted on a parcel or lot shall not exceed the total number permitted under the residential density requirements of the primary zoning district or as provided in *Section 10.2.8 of this Ordinance*, whichever is more restrictive.

#### **10.2.8 Residential Subdivision Requirements**

Lots in the Shoreland Overlay District shall comply with the following minimum lot area (sq. ft) and width (ft) requirements:

##### **A. Unsewered Lakes**

##### **(1) Natural Environment**

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	80,000	200
Duplex	120,000	300
Triplex	160,000	400
Quad	200,000	500

##### **(2) Recreational Development**

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	40,000	150

Duplex	80,000	225
Triplex	120,000	300
Quad	160,000	375

## (3) General Development

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	20,000	100
Duplex	40,000	180
Triplex	60,000	260
Quad	80,000	340

## B. Unsewered Rivers

## (1) Transition River Segment

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	75,000	250
Duplex	110,000	375
Triplex	150,000	625
Quad	180,000	625

## (2) Agriculture, Urban and Tributary

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	40,000	150
Duplex	60,000	225
Triplex	90,000	300
Quad	110,000	375

## (3) Designated Trout Stream

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	80,000	200
Duplex	120,000	300
Triplex	160,000	400
Quad	200,000	500

## (4) Scenic River District

The minimum lot area and width shall be as provided in *Section 9.13.10 of this Ordinance*.

## C. Sewered Lakes

## (1) Natural Environment

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	40,000	125
Duplex	70,000	225
Triplex	100,000	325
Quad	130,000	425

## (2) Recreational Development

<b>Type</b>	<b>Area</b>	<b>Width</b>
Single	20,000	75

Duplex	35,000	135
Triplex	50,000	195
Quad	65,000	255

## (3) General Development

Type	Area	Width
Single	15,000	75
Duplex	26,000	135
Triplex	38,000	195
Quad	65,000	255

## D. Sewered Rivers

## (1) Urban, and Tributary River Segments and Streams

Type	Area	Width
Single	20,000	75
Duplex	30,000	115
Triplex	40,000	150
Quad	60,000	190

**10.2.9 Commercial and Industrial Subdivision Requirements**

The minimum lot size and width requirements for commercial and industrial uses shall be the lot size and width requirements for the primary zoning district, but in no case shall the lot area and width be less than the single family lot area and width requirement for the applicable lake or river classification.

**10.2.10 Suitable Lot Area Determination**

Only land area above the ordinary high water level shall be used to meet the minimum lot area and width requirements. Lot width standards shall be met at the water line and at the building line.

**10.2.11 Placement, Design and Height of Structures****A. Placement of Structures on Lots****(1) Setback (in feet) from Ordinary High Water Level**

<u>Classification</u>	<u>Structure Setback</u>
(a) <b>Lakes:</b>	
Natural Environment	200
Recreational Development	100
General Development	75
(b) <b>Rivers and Streams:</b>	
Transition	150
Agriculture	100
Urban	100
Tributary	100
Designated Trout Stream	200
Scenic	150

- (2) **Established Building Line for Principal Structures.** In locations where a principal structure exists on both sides of a proposed building site and a building line can be reasonably established, the Department may issue a permit for a lesser distance from the ordinary high water level than those required in *Section 10.2.11 A of this Ordinance*. Structures located wholly or partly within the shore impact zone shall not be used to establish a building line. The landward extension of the shore impact zone and its intersection with the adjacent property line shall be used as the point of reference to establish a building line in instances where a principal structure is located partially or wholly within the shore impact zone. For new residential dwellings, the building line shall be established by calculating the average building line setback for the dwelling located on either side of the proposed residential dwelling and by establishing the building line by using the sight line method. The most restrictive building line setback shall apply, except that in no case shall the calculated setback be greater than the building line setback established for the applicable lake classification. For additions, the building line may be established by using a string line between the corner of the dwelling for which the addition is being sought and the lakeward corner closest to the dwelling nearest the proposed addition, by using a sight line, by calculating the average setback of the dwellings located on either side of the proposed addition, or by other reasonable methods which may be employed. In no case, shall any principal structures be permitted closer than the following distances:
- (a) On Natural Environment Lakes and Designated Trout Streams; no closer than one hundred (100) feet.
  - (b) On Recreational Development Lakes; no closer than fifty (50) feet.
  - (c) On General Development Lakes; no closer than fifty (50) feet.
  - (d) On Transition Rivers; no closer than seventy five (75) feet.
  - (e) On Agriculture, Urban and Tributary Rivers; no closer than fifty (50) feet.
  - (f) Within twenty (20) feet of the top of a bluff.
  - (g) On Designated Trout Streams; no closer than one hundred (100) feet.
- (3) **Decks.** Decks that cannot be constructed in accordance with *Section 10.2.11 A (1) or Section 10.2.11 A (2) of this Ordinance* shall be subject to the following standards:
- (a) The principal structure or dwelling unit to which a deck is being attached must have been in existence on June 26, 1972, and further provided that there have been no structural additions or alterations on the waterward side of said structure or dwelling unit since June 26, 1972; and

- (b) A thorough evaluation of the property and structure by the Department reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure; and
  - (c) Deck encroachment toward the ordinary high water level shall not exceed fifteen (15) percent of the existing setback of the dwelling unit or principal structure to which it is being attached or shall not result in a setback of less than thirty (30) feet from the ordinary high water level, whichever is more restrictive; and
  - (d) The deck shall be constructed of wood, plastic or other rot-resistant material, and be painted or stained in colors compatible with the character of the neighborhood.
  - (e) The deck shall not be screened in, enclosed or roofed; and
  - (f) Decks constructed under the provisions of *Section 10.2.11 A (3) of this Ordinance* shall not be used as the basis for the establishment of any future building line.
- (4) **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u><b>Setback From</b></u>	<u><b>Setback (in feet)</b></u>
(a) top of bluff	30
(b) unplatted cemetery	50

- (5) **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.

**B. Design Criteria For Structures**

- (1) **High Water Elevations.** Structures shall be placed in accordance with *Section 10.1 of this Ordinance*, if applicable to the site. If *Section 10.1 of this Ordinance* does not apply to the site, the elevation to which the lowest floor, including basement, is placed or flood proofed shall be determined as follows:
- (a) For lakes, by placing the lowest floor at a level no lower than the regulatory flood protection elevation or at least three (3) feet above the highest known water level, or at least three (3) feet above the ordinary high water level, whichever is higher. When upon inspection, the Department determines, with the use of a hand level or similar method, that the bottom floor elevation of a proposed residential dwelling or addition to a residential dwelling will be six (6) feet or less above either the highest known water level, ordinary high water mark or regulatory flood protection elevation, whichever is applicable, the owner of a riparian lot shall be required to submit certification by a registered engineer, registered architect or registered land surveyor that the lowest floor elevation of

- any dwelling unit or addition thereto, including basement, is placed at least three (3) feet above the ordinary high water level, or no lower than the regulatory flood protection elevation.
- (b) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three (3) feet above the ordinary high water level or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, a qualified engineer or hydrologist consistent with *Minnesota Rules, parts 6120.5000 to 6120.6200; or successor rule*, governing the management of flood plain areas shall do technical evaluations. If more than one approach is used, the highest flood protection elevation determined shall be used for placing structures and other facilities; and
  - (c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this section if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (2) Water-Oriented Accessory Structures. Each lot, except for land within the Scenic River District, may have one (1) water-oriented accessory structure not meeting the normal structure setback requirements contained in *Section 10.2.11 A of this Ordinance* if the water-oriented accessory structure complies with the following provisions:
- (a) The structure or facility shall not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than one hundred fifty (150) square feet. Detached decks, exclusive of safety rails, shall not exceed eight (8) feet above grade at any point;
  - (b) The setback of the structure or facility from the ordinary high water level shall be at least ten (10) feet; except that on Natural Environment Lakes the setback shall be at least twenty five (25) feet;
  - (c) The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - (d) The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area;



- (e) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities;
  - (f) The structure or facility shall not be located on or within the bluff or bluff impact zone.
- (3) Stairways, Lifts and Landings. Stairways, lifts and landings 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 shall meet the following design requirements:
- (a) Stairways and lifts shall not exceed four (4) feet in width on residential lots. Stairways and lifts shall not exceed six (6) feet in width for commercial properties, public open-space recreational properties and residential open space or conservation design developments in shoreland;
  - (b) Landings for stairways and lifts on residential lots shall not exceed thirty two (32) square feet in area. Landings for stairways and lifts shall not exceed forty eight (48) square feet for commercial properties, public open-space recreational properties and residential open space or conservation design developments in shoreland;
  - (c) Canopies or roofs are not allowed on stairways, lifts or landings;
  - (d) 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;
  - (e) Stairways, lifts and landings shall be located in the most visually inconspicuous portions of the lot, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - (f) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (a) to (e) are complied with, in addition to the requirements of *Minnesota Rules, chapter 1341; or successor rule.*
- (4) Significant Historic Sites. No structures 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.
- (5) Steep Slopes. The Department shall evaluate soil erosion impacts and development visibility from public waters before issuing a permit for construction of roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of

structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

- C. **Height of Structures.** Within the Shoreland Overlay District, the maximum structural height is thirty (30) feet, except that water oriented accessory structures shall comply with the height requirements contained in *Section 10.2.11 B (2) of this Ordinance*, and further that guest cottages shall comply with the height requirements contained in *Section 10.2.12 B (2) of this Ordinance*.
- D. **Fences.** The construction of fences and walls shall be subject to *Section 7.12 of this Ordinance* and to the following standards:
  - public access.
  - (2) Fences erected from the building line to the ordinary high water level shall not exceed a height of four (4) feet and have at least eighty (80) percent of the surface uniformly open and unobstructed unless the adjoining lot is in a Commercial District, Industrial District or abuts a public park or public access.
  - (1) Unless specified otherwise, no fence or wall on the side line of a lot shall be higher than six (6) feet, unless any part above such height has at least fifty (50) percent of the surface uniformly open and unobstructed, unless the adjoining lot is in a Commercial District, Industrial District or abuts a public park or public access.
- E. **Boathouses.** Boathouses and additions or alterations thereto are prohibited, except for railings.
- F. **Accessory Buildings.** The total number of accessory buildings and the total cumulative area that accessory buildings may occupy shall be in accordance with the performance standards for accessory buildings contained in *Section 6 of this Ordinance*.

#### 10.2.12 Special Provisions

- A. **Duplexes, Triplexes and Quads.** Subdivisions involving duplexes, triplexes and quads shall also meet all of the following standards:
  - (1) Each building shall have common sewage treatment and water systems in one location and serve all dwelling units in the building; and
  - (2) Watercraft docking facilities for each lot shall be centralized in one location and service all dwelling units in the building; and
  - (3) No more than twenty five (25) percent of a lake's shoreline can be in duplex, triplex or quad developments.
- B. **Guest Cottages.** One (1) guest cottage may be allowed on a lot meeting or exceeding the duplex lot area and width requirements set forth in *Section 10.2.8 of this Ordinance*, provided all of the following standards are met:
  - (1) For a lot exceeding the minimum lot dimensions of a duplex lot, the guest cottage shall be located within the smallest duplex-sized lot that could be created including the principal dwelling unit; and

- (2) A guest cottage shall not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height; and
  - (3) A guest cottage shall be located or designed to reduce its visibility as viewed from public waters and adjacent wetlands by vegetation, topography, increased setbacks, color or other means acceptable to the County, assuming summer leaf-on conditions; and
  - (4) The performance standards for guest cottages contained in *Section 6.25 of this Ordinance* shall be met.
- C. Controlled Accesses. Lots intended to be used for common docking facilities or to provide common or controlled access to public waters shall not be a permitted use in any zoning district. This provision shall not apply to Department of Natural Resources public accesses.

### **10.2.13 Vegetative Alterations**

- A. Vegetation alteration necessary for the construction of structures, sewage treatment systems and the construction of roads and parking areas regulated by *Section 10.2.16 of this Ordinance* are exempt from the vegetation alteration standards in *Section 10.2.13 of this Ordinance*, provided that a plan for the activities has been submitted to and approved by the Department.
- B. Except for agricultural and forest management uses as regulated in *Sections 10.2.19 and 10.2.20 of this Ordinance*, respectively, removal or alteration of vegetation may only be allowed, subject to the following standards:
  - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed, except as described in this Section. Intensive vegetation clearing for forest land conversion to another use outside of the shore and bluff impact zones and on steep slopes may be allowed as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District.
  - (2) Planned Unit, open space and conservation design developments are subject to the standards of *Sections 7.6 and 10.2.22 A.(2) of this Ordinance*.
  - (3) Vegetative alterations may be allowed on riparian lots, in shore or bluff impact zones or on steep slopes in accordance with the following standards:
    - (a) Prior to vegetative removal regulated by this Section or prior to establishing a view corridor on a riparian lot, the property owner shall contact the Department to arrange for a site visit and complete an application for vegetative alteration; and
    - (b) The Department may require that the property owner clearly mark any proposed view corridor and/or any vegetation to be removed from a riparian lot. Additionally, the Department may require the property owner to supply

- information on slope, soil type, property line locations, location of easements and any other information that may be needed in order for the Department to act on a request; and
- (c) In considering a request for vegetative alterations, including the establishment of a view corridor, the Department may take into account the predevelopment vegetation, natural openings, surrounding vegetation patterns and density, previous vegetative alterations, slope, soil type, the locations and extent of adjacent view corridors, the adjacent body of water and other information it deems necessary and pertinent to the request; and
  - (d) The total cumulative view corridor shall not exceed fifty (50) feet or one-half (1/2) the lot width, whichever is less; and
  - (e) The view corridor shall extend from the most lakeward side of the principle residence and continue to the ordinary high water level of a public water body; and
  - (f) The total cumulative tree/shrub removal within any view corridor shall not exceed twenty five (25) percent of the trees greater than five (5) inches in diameter four and one-half (4.5) feet above the ground (diameter breast height or DBH) and twenty five (25) percent of the trees/shrubs less than five (5) inches DBH; and
  - (g) From the ordinary high water level, extending through the shore impact zone and extending to the building setback, exclusive of the view corridor, no vegetative alterations are allowed, however planting of trees, shrubs and other vegetation is encouraged; and
  - (h) From the building setback and extending to the landward end of the lot, up to twenty five (25) percent of the trees greater than five (5) inches DBH and up to twenty five (25) percent of the trees/shrubs less than five (5) inches DBH may be removed in accordance with a plan submitted to and approved by the department; and
  - (i) Except Boxelder and Chinese Elm, the removal of exotic species such as European Buckthorn or Purple Loosestrife or noxious species such as Poison Ivy or Prickly Ash is permitted; and
  - (j) The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, shall not be substantially reduced; and
  - (k) The existing shading of water surfaces along the shoreline shall be preserved during summer, leaf-on periods of the year.
- C. The removal of exotic species such as European Buckthorn or Purple Loosestrife or noxious species such as Poison Ivy or Prickly Ash shall no be considered to constitute an alteration of the vegetation.

- D. Naturally dead or diseased trees may be removed regardless of their location on the property.
- E. Application of fertilizer and pesticides in shoreland must be done in such a way as to minimize runoff into the shore impact zone or public water. The use of phosphorous containing fertilizer is prohibited within the shore impact zone.
- F. Burning of yard waste is prohibited within the shore and bluff impact zones or on steep slopes.
- G. Planting of trees, shrubs, establishing vegetated buffers and maintaining vegetated shorelines is encouraged on all riparian lots within Stearns County as a method to minimize and mitigate the impacts of stormwater runoff, erosion and nutrient enrichment on the County's water resources.

#### **10.2.14 Topographic Alterations/Grading and Filling and Retaining Walls**

##### **A. Exclusions:**

- (1) **Construction permitted structures.** Grading and filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued construction permits for these facilities, provided that grading, filling and excavation is limited to within twenty (20) feet of the footprint or foundation of a structure, and control measures are met consistent with the provisions of *Section 7.10 of this Ordinance*. Grading and filling necessary for the construction of water oriented accessory structures are not excluded.
- (2) Projects which are reviewed, approved and meet the sequencing and wetland replacement plan provisions of *Minnesota Rules, part 8420; or successor rule*, do not require the issuance of a shoreland alteration permit.
- (3) Projects that are reviewed, approved and meet the requirements for animal feedlots contained in *Section 6.7 of this Ordinance*.
- (4) If the management of spoils from a project in a public waters or public waters wetland which has received Department of Natural Resources approval is described in the Department of Natural Resources permit, the project is exempt from the shoreland permit requirements of *this Ordinance*.
- (5) Topographic alterations involving the movement of ten (10) cubic yards or less of material, not including sand blankets.
- (6) Topographic alterations involving the movement of fifty (50) cubic yards or less of material that is not on steep slopes or within shore or bluff impact zones.
- (7) Retaining walls located more than two (2) times the required structure setback pursuant to *Section 10.2.11A(1) of this Ordinance* and not located in the bluff impact zone unless a permit is otherwise required by *Section 10.2.14 B or D of this Ordinance*.
- (8) The grading, filling and topographic alterations necessary for the initial establishment of roads and stormwater management facilities in a plat with an approved stormwater management plan. Said

improvements cannot be constructed until the final plat is on record in the Office of the Stearns County Recorder.

- (9) Projects that are subject to prepare and implement a stormwater management plan pursuant to *Section 7.26.1 of this Ordinance*.

**B. Minor Shoreland Alteration Permits.** A minor shoreland alteration permit may authorize the following activities.

- (1) Topographic alterations of a smaller scale in which the total amount of fill being deposited, removed or graded on site is less than one hundred (100) cubic yards.
- (2) Topographic alterations located more than two (2) times the required structure setback pursuant to *Section 10.2.11A(1) of this Ordinance*.
- (3) Projects in which rock riprap is being used to control erosion.
- (4) DNR, SWCD, NRCS or Watershed District projects. Projects that are part of an approved Department of Natural Resources project, or that are funded by and overseen by the Soil and Water Conservation District, Natural Resource Conservation Service or Watershed District require a minor shoreland alteration permit.
- (5) Emergency Stabilization. Emergency stabilization measures, generally temporary in nature and normally requiring a major shoreland alteration permit, to prevent imminent erosion or property damage after the failure of an erosion control device. Permanent repair or replacement of erosion control devices may still require a major permit.
- (6) If the Director determines that a project has the potential for an adverse environmental impact, including but not limited to erosion, sedimentation, stormwater impacts or pollution of surface waters, the Director can require an applicant to apply for a major shoreland alteration permit. An example includes but is not limited to alterations occurring on the direct slope to the waterbody.

**C. Information for Minor Alteration Permit.** A permit application checklist, identifying the minimum information required for the application, shall be provided by the Department.

**D. Major Shoreland Alteration Permits.** Alterations of a larger size scale that do not qualify for a minor shoreland alteration permit shall only be allowed when authorized by a major shoreland alteration permit granted by the Board and issued by the Department. The Board may refuse to grant a major shoreland alteration permit if it is determined that issuance of the permit may have an adverse environmental impact.

**E. Information for Major Alteration Permit.** A permit application checklist, identifying the minimum information required for the application, shall be provided by the Department.

**F. Major and Minor Shoreland Alteration Permit Conditions.** Major and minor shoreland alteration permits shall be subject to the following conditions:

- (1) Alterations shall only be allowed if they are necessary to a permitted, provisional, accessory or conditional use and do not adversely affect adjacent or nearby properties or the water body.

- (2) Alterations necessary to correct existing erosion problems may be allowed.
- (3) Bioengineered solutions, such as the use of natural vegetation, slope stabilization using mulch, biomat, or similar bioengineered means, shall be the preferred method of preventing or mitigating the risk of erosion. Rock riprap shall only be allowed when bioengineered solutions are demonstrated to be unfeasible. Riprap used for ornamental purposes or for terracing natural slopes shall meet the retaining wall standards set forth in *Section 10.2.14 I of this Ordinance; or successor Ordinance*. For purposes of this Section, rock riprap shall mean coarse stones randomly and loosely placed along the shoreline. Rock riprap is permitted as a minor shoreland alteration permit provided the following standards are met:
  - (a) The finished slope does not exceed three (3) feet horizontal to one (1) foot vertical.
  - (b) The landward extent of the riprap is within ten (10) feet of the OHWL.
  - (c) The height of the riprap above the OHWL does not exceed three (3) feet.
- (4) Alterations shall be designed and constructed in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible.
- (5) Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible.
- (6) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used.
- (7) Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and Water Conservation District or Natural Resource Conservation Service.
- (8) Fill or excavated material shall not be placed in a manner that creates an unstable slope.
- (9) Plans to place fill or excavated material on steep slopes shall be designed by a qualified professional such as an architect or engineer. For Major Permit applications, the Department may request review and comments on the design from the Soil and Water Conservation District or Natural Resource Conservation Service. The project shall not create finished slopes of 30 percent or greater.
- (10) The Department, Board or Planning Commission may require plans prepared by a qualified professional such as an architect or engineer.
- (11) Financial guarantee in the form of a letter of credit, cash escrow or bond in favor of the County equal to one hundred twenty-five percent (125%) of site grading and erosion/sediment control costs may be required. This guarantee is necessary to ensure the satisfactory installation, completion and maintenance of the

measures as required in the major shoreland alteration permit. The guarantee shall be accompanied by a 'Work and Materials List' outlining the type and amount of materials and is required prior to final permit approval.

- (12) The Department may, when determined necessary, attach conditions to permits including, but not limited to, the following: requiring setback or distance separations, requiring methods for limiting erosion or minimizing stormwater flow into public waters or adjacent properties, preserving or restoring vegetation and by adding appropriate native plantings.

**G. Permit Evaluation.** The Department, Board or Planning Commission shall evaluate shoreland alteration permit applications for conformance with *Section 10.2.14 F of this Ordinance* and may attach additional conditions to further assure that the shoreland alterations will not have an adverse impact on adjacent properties or the water body. The Board shall issue findings of fact for approval, denial or modification of the application, consistent with *Section 4.15 of this Ordinance*.

- (1) **Professional Design and Installation.** The County encourages applicants to submit designs completed by professional trained consultants or engineers, and discourages self-installation by the applicant. Applications that include a design by a licensed or certified professional and that will be installed by a licensed contractor are subject to inspection at the Department's discretion.
- (2) **Non- Professional Design or installation.** Applications submitted without professional designs or that are being installed by the applicant rather than a licensed contractor will require interim inspections. The Board or the Department will include a schedule for interim inspections to be conducted by Department staff. The schedule may include, but is not limited to, inspection upon completion of the following installation phases:
- (a) grading or excavation;
  - (b) vegetation removal;
  - (c) installation of stormwater management devices;
  - (d) installation of temporary or permanent erosion devices; and
  - (e) upon project completion
- (3) Before issuing a minor or major shoreland alteration permit the Department shall consider, but not be limited to, the following issues:
- (a) The compatibility of the proposed alteration with adjacent land uses;
  - (b) The effect on fish and wildlife habitat; and
  - (c) The effect of the proposal on surface water.

**H. Connections to public waters.** Excavations, where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, shall be permitted only after issuance of a major shoreland permit. Permission for excavations may be given only after the Commissioner of the Department of Natural Resources has approved the proposed connection to public waters.



- I. **Retaining Walls.** The construction of retaining walls are subject to the requirements in *Section 10.2.14B and D of this Ordinance* and shall only be authorized by either a minor or major shoreland alteration permit as listed below. Wall height as it pertains to this Section is measured from the bottom of the retaining material to the top of the cap as measured from the highest point of the wall and shall include the height of all components constituting the wall. Cumulative height means the combined height of any wall or series of walls require to retain a single slope.
- (1) Minor Shoreland Alteration Permit. A Minor Shoreland Alteration Permit can authorize retaining walls meeting any of the following conditions:
- (a) Retaining walls four (4) feet in cumulative height or less when a documented erosion problem exists; or
  - (b) Retaining walls that are not visible from the shore by virtue of topography or vegetation during leaf-on, daylight conditions; or
  - (c) Replacement retaining walls pursuant to Section 5.1.2C(6) of this Ordinance; or
  - (d) Retaining walls four (4) feet in cumulative height or less used for ornamental purposes or for terracing natural slopes where a documented erosion problem does not exist is limited to one area not to exceed 25% of the lot width as measured at the Ordinary High Water Level. Maximum width shall not exceed 75 feet.
  - (e) Retaining walls that are located outside of the setback area for the applicable lake or river class.
- (2) Major Shoreland Alteration Permit. A Major Shoreland Alteration Permit can authorize retaining walls meeting any of the following conditions:
- (a) Retaining walls more than four (4) feet in cumulative height when a documented erosion problem exists.
  - (b) Replacement retaining walls greater than four (4) feet in cumulative height not pursuant to Section 5.1.2C(6) of this Ordinance.
  - (c) Retaining walls more than four (4) feet in cumulative height used for ornamental purposes or for terracing natural slopes where a documented erosion problem does not exist when the request exceeds more than one area, more than 25% of the lot width as measured from the Ordinary High Water Level or more than 75 feet in total width.
- J. **Sand Blankets.** The placement of sand within the shore impact zone and above the ordinary high water level shall only be authorized by a minor shoreland alteration permit as follows, unless a variance is granted in accordance with *Section 4.9 of this Ordinance*.
- (1) Sand blanket placement with excavation:
- (a) Only clean, washed sand, free of organic or toxic materials shall be used.

- (b) The sand blanket may be up to twelve (12) inches in depth, up to thirty (30) feet in width along the shoreline or one-half (1/2) the lot width, whichever is less; and may not extend more than ten (10) feet landward of the ordinary high water level.
  - (c) An earthen berm shall be constructed on the landward side of the sand blanket to divert surface water runoff around the sand area. The berm shall be planted with vegetation such as grass to aid in the assimilation of surface water runoff.
- (2) Sand blanket placement without excavation:
  - (a) Only clean, washed sand, free of organic or toxic materials shall be used.
  - (b) The sand blanket may be up to twelve (12) inches in depth, up to fifty (50) feet in width along the shoreline or one-half (1/2) the lot width, whichever is less; and may not extend more than ten (10) feet landward of the ordinary high water level.
- (3) Replacement or maintenance sand blankets may not exceed the same amount and dimensions of the original sand blanket
- (4) Sand may only be placed in an area where the natural drainage of the property will not result in the sand being washed into the water body. Sand blankets are not permitted on steep slopes as defined in *Section 3 of this Ordinance*.

#### **10.2.15 Abatement Orders**

The Director may issue an abatement order when the Director or the Board refuses to issue a permit for a shoreland alteration project that was started or completed prior to consideration of an application or issuance of a permit. An abatement order may also be issued by the Director to correct or abate any violation of any provision of *this Ordinance*. The abatement order shall be delivered personally or by certified mail to the owner of record of the property on which the violation exists and shall specify the following:

- A. A date by which the landowner shall complete abatement and obtain a letter of satisfaction from the Department.
- B. The action on the part of the property owner to eliminate or resolve the violation.
- C. Advise the property owner that failure to comply with the abatement order is a violation of *this Ordinance*.
- D. Advise the property owner of their right to appeal the abatement order to the Board of Adjustment within ten (10) business days of receipt of the abatement order.

#### **10.2.16 Placement and Design of Roads, Driveways and Parking Areas**

- A. For plats, new development roads shall not be constructed unless the final plat is on record in the Office of the Stearns County Recorder.
- B. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Plans and specifications shall be provided by a qualified individual, such as a registered professional engineer, architect or surveyor, showing that all roads and parking areas are designed and will be

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.

- C. Public and private roads, driveways, and parking areas shall meet structure setbacks from the ordinary high water level or the top of a bluff for the applicable lake or river classification, and shall not be placed within bluff or shore impact zones when avoidance is an option. A Major Shoreland Alteration Permit shall be required if the road, driveway or parking area is private and cannot meet the applicable structural setback.
- D. Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control provisions of this Ordinance are met. For private watercraft access ramps, approach roads, driveways and parking areas that are located within the setback area for the applicable lake or river class or on steep slopes, the grading, filling and permit provisions of *Section 10.2.14 of this Ordinance* shall be met. For driveways and parking areas that are located outside the setback area for the applicable lake or river class and not on steep slopes, the provisions of *Section 10.2.14 D of this Ordinance* shall be met.

#### **10.2.17 Stormwater Management**

In the Shoreland Overlay District, the following general and specific standards in addition to the stormwater management standards in *Section 7.26 of this Ordinance* shall apply:

- A. General Standards
  - (1) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces shall be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
  - (2) Development shall 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 shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - (3) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man made materials and facilities.
- B. Specific Standards
  - (1) Impervious surface coverage of a lot shall not exceed twenty-five (25) percent of the lot area.
  - (2) When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that the facilities are designed and installed consistent

with the field office technical guide of the local Soil and Water Conservation District or other qualified authority.

- (3) New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

#### **10.2.18 Standards for Commercial, Industrial, Public and Semipublic Uses**

- A. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:
  - (1) In addition to meeting impervious coverage limits, setbacks and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (2) Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  - (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public subject to the following general standards:
    - (a) Signs subject to *Section 7.25 of this Ordinance*; and
    - (b) Lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- B. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, shall either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

#### **10.2.19 Agriculture Use Standards**

- A. General cultivation, farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes, shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation District or the Natural Resource Conservation Service or as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.

- B. Animal feedlots shall meet the Animal Feedlot standards as set forth in *Section 6.7 of this Ordinance*.

#### **10.2.20 Forest Management Standards**

The harvesting of timber and associated reforestation shall be conducted consistent with the provisions of *Water Quality in Forest Management "Best Management Practices in Minnesota"*, which is hereby incorporated by reference, a copy of which is on file in the Stearns County Environmental Services Department, St. Cloud, Minnesota, and is not subject to frequent change.

#### **10.2.21 Extractive Use Standards**

An extractive use site development and restoration plan shall be developed, approved and followed over the course of operation of the site according to *Sections 7.17 and 10.2.21 of this Ordinance*.

- A. Site Development and Restoration Plan Requirements  
The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and shall clearly explain how the site will be rehabilitated after extractive activities end.
- B. Setbacks for Processing Machinery  
Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

#### **10.2.22 Residential Shoreland Planned Unit and Open Space Development Standards**

- A. Design Standards. The following design standards shall apply to all residential open space developments in shoreland:
  - (1) Centralized boat docking facilities for watercraft shall be provided.
  - (2) The shore impact zone, based on normal structure setbacks, shall be included as protected conservation area. At least fifty (50) percent of the shore impact zone of existing open space developments, or at least seventy (70) percent of the shore impact zone of new open space developments, shall be preserved in its natural or existing state. Additionally, a minimum of fifty (50) percent of the total lot area shall be dedicated as open space.
  - (3) Residential open space developments in shoreland shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and subsurface sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Pollution Control Agency and Stearns County. Subsurface sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area, free of

limiting factors, shall be provided for a replacement soil treatment system for each subsurface sewage treatment system.

- (4) Dwelling units or sites shall be sited into one or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the applicable lake or river classification:
    - (a) Setback from the ordinary high water level;
    - (b) Elevation above the ordinary high water level; and
    - (c) Height restrictions.
  - (5) Shore recreation facilities, including but not limited to, swimming areas, docks, watercraft mooring areas and launching ramps shall be centralized and located in areas suitable for them. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft shall not exceed one (1) for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
  - (6) Structures, parking areas and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color or other means acceptable to the County, assuming summer, leaf-on conditions. Vegetation and topographic screening shall be preserved, if existing, or may be required to be provided.
  - (7) Accessory structures and facilities, except water oriented accessory structures, shall meet the required structure setback and shall be centralized.
  - (8) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in *Section 10.2.11 B. (2) of this Ordinance* and are centralized.
  - (9) Residential planned unit developments are further subject to the design and administrative requirements of. *Minnesota Rules, part 6120.3800; or successor rules.*
  - (9) In addition to the design standards set forth in *Section 10.2.22 A of this Ordinance*, residential open space developments in shoreland shall also be subject to the natural resource conservation design standards as set forth in *Section 7.6.10 of this Ordinance*.
- B. Review, approval, density.** Residential open space developments in shoreland are typically owner occupied residences. Single family dwellings, attached single family dwellings, townhouses and residential condominiums are examples of residential open space developments.
- (1) **Open Space Development Consideration Process**

- (a) An open space development shall be considered in the same manner as a subdivision plat and shall also be subject to the review and approval procedures of *Section 4.8 of this Ordinance*.
  - (b) A preliminary subdivision plat shall be filed and processed in accordance with the procedures for processing a subdivision plat established in *Subdivision Ordinance Number 230; or successor ordinance*.
  - (c) The approved preliminary plat shall be the site plan for the open space development whenever there is modification or variation from the standards of the primary zoning district or any applicable overlay district.
  - (d) Any request for a change to a site plan for an open space development shall be administered in the same manner as to that required for a new open space development.
  - (e) Modifications to an open space development shall be considered in the same manner as for approval pursuant to *Section 10.2.22 B.(1)(a) of this Ordinance*.
- (2) **Criteria for Review.** The Planning Commission and Board shall include in their review the following criteria in considering an open space development:
- (a) The degree to which the open space development design meets the standards of *this Ordinance*.
  - (b) The degree to which the open space development supports the goals and policies of the Stearns County Comprehensive Plan.
  - (c) The degree to which the open space development better maintains the rural character of the area when compared to a conventional development of the same density.
  - (d) The degree to which the open space development will result in greater amenity and efficiency in the use of the land for the benefit of its residents and users and those in the surrounding area than would be possible under conventional development.
- (3) **Residential Density Requirements.** Residential open space developments shall be subject to the following residential density requirements:
- (4) The maximum number of residential dwelling units allowed in a proposed new or expansion to an existing shoreland open space development shall be determined by use of the more restrictive of the following two methods:
- (a) **Method I**
    - (aa) The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water

level at the following intervals, proceeding landward according to the following table:

<b>Shoreland Tier Dimensions</b>	<b>Feet</b>
General development lakes – first tier	200
General development lakes – second and additional tiers	267
Recreational development lakes	267
Natural environment lakes	400
All river classes	300

- (bb) The suitable area within each tier shall be calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters.
- (cc) The suitable area shall then be divided by the single residential lot size requirement of the applicable lake or river classification and the quotient will be the total number of single family residential dwellings that may be allowed on the parcel. Fractions shall be reduced to the next whole number.
- (b) Method II  
Residential density shall be calculated using the residential density requirements section of the applicable primary zoning district.
- (c) The cumulative number of permitted units or sites determined under Method I shall be compared with the results from Method II and the lowest number shall be used.
- (5) Allowable densities may be transferred from any tier to any other tier further from the waterbody, but shall not be transferred to any other tier closer.
- C. **Density Increase Multipliers.** Increases of fifty (50) percent to the unit or site density previously determined for a Residential open space development in shoreland may be allowed if the dimensional standards in *Section 10.2.11 of this Ordinance* are met or exceeded and the design criteria contained in *Sections 7.6 and 10.2.22 of this Ordinance* are satisfied. Density increases shall only be allowed if structure or site setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum ordinary high water level setback of the applicable lake or river classification, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the Planning Commission and Board, and the setback from the ordinary high



water level of the applicable lake or river classification is at least 25 percent greater than the minimum setback.

### **10.2.23 Resorts**

#### **A. Scope.**

Stearns County shall regulate all existing and proposed resort developments within shoreland areas pursuant to the provisions set forth herein.

#### **B. New Resorts and/or Planned Unit Developments.**

New resort developments may be allowed as a conditional use pursuant to *Section 4.8 of this Ordinance* as identified in *Section 9.10, 10.2.4 or 10.2.6 of this Ordinance*. New resort developments shall not be allowed on Natural Environment lakes. New resorts may be permitted, provided all of the following standards are met:

##### **(1) Information Requirements.**

- (a) topographic contours at two (2) foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics such as bluffs and slopes greater than twenty five (25) percent;
- (b) the surface water features required in *Minnesota Statutes, section 505.02, subdivision 1; or successor statutes*, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- (c) adequate soils information to determine suitability for building and standard on-site sewage treatment system capabilities pursuant to *Stearns County Sewage Treatment Ordinance Number 422; or successor ordinance and Stearns County Subdivision Ordinance Number 230; or successor ordinance*;
- (d) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths out to fifteen (15) feet, type of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- (e) a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at two (2) foot intervals or less, trees, unusual geological features, vernal pools, wetlands, swimming beaches, docks and continuous mooring sites and other lake related implements, including rafts and buoys, markers delineating swimming and bathing areas, beaches and other facilities;

- (f) documents that explain how the project is designed and will function. These shall include all covenants, operating rules and procedures of any property owners association, all easements associated with the development, a concept statement describing the project, all structures and various other drawings or plans as required by the Department;
  - (g) a context map showing the natural features on both the proposed development site and on adjacent properties; and
  - (h) for conservation easements, a statement of preliminary acceptance from a qualified holder as defined in *Minnesota Statutes, section 84C.01-0; or successor statutes.*
- (2) Density. The allowable development density shall be established pursuant to *Section 10.2.23 F (1) through 10.2.23F (3) of this Ordinance*;
- (3) Structure Requirements.
  - (a) For resorts created after December 18, 2007 structure setbacks and structure height shall meet the standards in *Sections 10.2.11A and C of this Ordinance*;
  - (b) For conversions pursuant to *Section 10.2.23G of this Ordinance*, the exterior expansions in any dimension or structural alteration will not be allowed for existing structures that are located in the shore or bluff impact zone. Conditions for approval must provide for future relocation of structures to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced. park trailers and recreational camping vehicles are required to meet the setback requirements in *Section 10.2.11A of this Ordinance.*
- (4) Accessory Structures. Resorts shall be designed and managed such that there is no more than one accessory structure associated with dwelling units/sites, no vehicle parking adjoining most dwelling units or limited parking adjacent to dwelling units/sites or other amenities that would encourage long-term residential use. Accessory structures are limited to a maximum of forty-eight (48) square feet and no higher than eight (8) feet.
- (5) Marina. Where required, a marina permit has been obtained from the Department of Natural Resources as provided under *Minnesota Rules, part 6115.0211; or successor rule.*
- (6) Design Criteria. Development shall meet all of the following design criteria in part, with the following exceptions:
  - (a) All developments must contain at least three (3) contiguous acres of buildable area with a lot width of a minimum of four hundred (400) feet.

- (b) Developments shall contain protected conservation area meeting all of the following criteria:
  - (aa) At least fifty (50) percent of the total project area must be permanently preserved as common open space. Common open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries, and at least seventy five (75) percent of the common open space must be non-wetland area. At least fifty (50) percent of the common open space shall be retained in a contiguous area.
  - (bb) The land area of all dwelling units/sites and accessory structures shall not be included in the computation of common open space.
  - (cc) Open space may include outdoor recreational facilities for use by owners of the dwelling units/sites or the public.
  - (dd) The shore and bluff impact zones pursuant to *Section 10.2.11 of this Ordinance* shall be included as common open space. No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings.
  - (ee) The appearance of common open space areas, including topography, vegetation and allowable uses, shall be preserved by use of permanent easements, public dedication and acceptance or other equally effective and permanent means. For permanent easements, a willing party for receiving easements must be declared, otherwise, a party may be assigned pursuant to *Minnesota Statutes, section 375.18, subp. 12; or successor statutes*.
  - (ff) Common open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- (c) Centralization and design of facilities and structures must be done according to the following standards:
  - (aa) Planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and subsurface sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Subsurface\_sewage

- treatment systems must be located on the most suitable areas of the development, and sufficient area free of limiting factors must be provided for a replacement standard soil treatment system for each sewage system.
- (bb) Dwelling units/sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: elevation above the surface water features and maximum height. The site design must incorporate the use of trees, unique resources and scenic vistas.
  - (cc) Shore recreation facilities, including but not limited to swimming areas, docks, watercraft mooring areas and launching ramps must comply with *Section 10.2.23E of this Ordinance*
  - (dd) Structures permitted pursuant to *Section 10.2.23B(8) of this Ordinance*, parking areas and other facilities must meet structural setbacks and must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the Department, assuming summer, leaf-on conditions.
  - (ee) One water-oriented accessory structures may be allowed, provided it meets *Section 10.2.11B(2) of this Ordinance* and the structure is centralized.
  - (d) Parking shall meet the requirements of *Section 7.19 of this Ordinance*, unless otherwise approved by the Board. Parking of vehicles and trailers shall be limited to designated parking areas.
  - (e) Severe weather shelters shall be required pursuant to *Section 4.20.2 A-J of Stearns County Ordinance Number 203; or successor ordinance*, unless otherwise approved by the Stearns County Emergency Management Director.
  - (f) All units or lots shall be designed to meet the Stearns County Addressing guidelines, including the posting of each unit or lot.
- (7) Structures in floodplain. All structures in the Floodplain Overlay District shall meet the elevation requirements pursuant to *Section 10.1 of this Ordinance*, except that an emergency evacuation plan may be allowed for recreational camping vehicles pursuant to *Section 10.1.14E of this Ordinance*.

- (8) Shoreland Buffers. Alterations of natural vegetation and topography shall be controlled to prevent erosion into public waters, fix nutrients, infiltrate rainwater runoff, preserve shoreland aesthetics and historic values, prevent bank slumping, limit direct and indirect impacts on water quality and protect fish and wildlife habitat. Vegetation removal necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities shall be exempt from the standards in this subpart. Public roads and parking areas, as regulated by *Section 10.2.16 of this Ordinance* are exempt from the provisions of this part.
- (a) A shoreline buffer a minimum of twenty five (25) feet landward of the ordinary high water level, consisting of trees, shrubs, and ground cover of native plants and understory, shall be required. If a buffer does not exist, one shall be installed according to a plan including the following information:
- (aa) Existing vegetation. Indicate existing woods, tree lines, lawn, native vegetation areas and any other vegetative types including common and scientific names.
- (bb) Toe protection. Indicate type of toe protection that will be established at the shoreline (i.e., coir log, bio-engineering, rock riprap).
- (cc) Planting plan. Indicate proposed vegetation (scientific names) and how it will be established: seeding (temporary and permanent), plugs, trees, shrubs, vines – including rates, spacing, total numbers and locations of each.
- (dd) Implementation schedule. Outline the proposed order of all aspects of construction.
- (ee) Work and materials list. Develop a defined list of work and materials including quantities for each item.
- (ff) A letter of credit, cash escrow or bond in favor of the County for one hundred twenty five (125) percent of the cost to establish a buffer will be required.
- (gg) Other information deemed necessary by the Director.
- (b) Removal or alterations of natural vegetation, except for forest management or agricultural uses as provided for in *Sections 10.2.19 and 10.2.20 of this Ordinance*, shall follow these standards:
- (aa) Vegetation clearing and removal of ground cover, including leaf litter and the forest floor duff layer, within the shore and bluff impact zones and on

steep slopes shall not be allowed, except as follows:

- (aaa) Limited clearing of trees and shrubs and cutting, pruning and trimming of trees to accommodate the placement of stairways and landings, access paths, view corridors and permitted water-oriented accessory structures or facilities shall be allowed within the shore impact zone. Trees, shrubs and a low ground cover consisting of native plants and understory shall be maintained in a natural state within this area. An access path permitted within this area shall not exceed a cleared width of six (6) feet and must be oriented generally perpendicular to the shoreline.
- (bbb) Limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees to accommodate the placement of approved stairways and landings, and access paths shall be allowed in bluff impact zones and on steep slopes. Trees, shrubs, and a low ground cover consisting of native grasses and plants shall be maintained in these areas.
- (bb) Removal of trees and shrubs within the secondary shoreline buffer zone may be allowed, provided that a well-distributed stand of trees and shrubs are maintained. A well-distributed stand of trees and shrubs means that a tree and shrub canopy covers over fifty (50) percent the area. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, or preferably native plants, shall be preserved, established or maintained in this area.
- (c) Use of fertilizer shall not be allowed within the shore impact zone. Use of fertilizer and pesticides elsewhere within the shoreland overlay district must be done in such a way as to minimize runoff into the shore impact zone or public water.
- (d) Vegetation within the shore impact zone shall be maintained to screen structures with trees and shrubs so that the structures are at most fifty (50) percent visible from public waters during summer, leaf-on conditions.
- (e) No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings, and, where permitted, one water-oriented accessory structure.

- (f) Open areas and lawns within the shore impact zone, except those allowed in part A, shall be left unmowed or replanted with native vegetation of trees and shrubs to establish and maintain a vegetative buffer, with a natural ground layer of understory plants.
- (9) Erosion Control and Stormwater Management. Erosion control and stormwater management shall meet the standards in *Sections 7.10 and 7.26 of this Ordinance* and impervious surface coverage shall not exceed twenty-five (25) percent within the total project area and in any tier.
- (10) Administration and maintenance requirements. Before final approval of all developments, the County must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of protected conservation areas and common open spaces and for the continued existence and functioning of the development as a community. The County may assess a one-time fee for purposes of monitoring and enforcing terms and conditions of any common open space governing instruments.
  - (a) Common open space preservation. Deed restrictions, permanent conservation easements, public dedication and acceptance, or other equally effective and permanent means, must be provided to ensure perpetual preservation and maintenance of common open space. For areas greater or equal to ten (10) acres, easements shall be held by a qualified unit of government, conservation organization, land trust or similar organization authorized to hold interest in real property pursuant to *Minnesota Statutes, section 84C.01-05; or successor statutes*, as approved by the Board. Local units of government may also hold or co-hold an easement. The instruments of the easement must include all of the following protections:
    - (aa) commercial uses shall be prohibited from noncommercial developments;
    - (bb) vegetation and topographic alterations other than to prevent personal injury or property damage and for restoration efforts based on an approved shoreland vegetation buffer plan shall be prohibited;
    - (cc) construction of additional buildings, impervious surfaces or storage of vehicles and other materials shall be prohibited;
    - (dd) beaching of motorized watercraft shall be prohibited; and
    - (ee) dumping, storage, processing, burning, burying or landfill of solid or other wastes shall be prohibited.

- (b) Vegetation. Shoreland vegetation shall be preserved, restored and maintained according to the approved shoreland vegetation buffer plan as outlined in *Section 10.2.23(C)(1)(i) of this Ordinance*. The loss of vegetation shall be replaced in kind.
- (c) Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential developments shall use an owners association with the following features:
  - (aa) Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.
  - (bb) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
  - (cc) Assessments must be adjustable to accommodate changing conditions.
  - (dd) The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities, and it must enforce covenants, deed restrictions, and easements. The association must have a land stewardship plan for common open space areas greater or equal to ten (10) acres specifically focusing on the long-term management of these open space lands.
- (d) Amendments or revisions to covenants or deed restrictions. Before establishing or recording any common interest community, the developer shall submit documents, including all covenants, conditions, restrictions, easements, and operating rules and procedures associated with the development, for review and approval by the Board unit pursuant to *Minnesota Statutes, section 515B.1-106, or successor statutes*. Under no circumstances shall covenants or deed restrictions be modified without the Board's determination that the proposed changes fully comply with the requirements of *part ALT6120.3800*. Amendments or revisions to covenants or deed restrictions shall be considered according to *Section 4.8 of this Ordinance*.
- C. Structure replacement within an existing resort.  
As an alternative to the requirements in *Section 10.2.23C of this Ordinance*, a variance pursuant to *Section 4.9 of this Ordinance* may be sought for replacement of structures within an existing resort that do not meet density or setback requirements. If a variance is granted, a conditional use permit pursuant to *Section 4.8 of this Ordinance* will be required. Pursuant to *Section 4.8 of*



*this Ordinance*, resorts existing on or before December 18, 2007 shall be allowed to maintain and replace their structures, without regard to available density or setbacks, provided the facility continues to operate as a resort and all of the following criteria are met.

- (1) Setbacks. Replacement structures, including lodges, shall not be placed closer to any waterbody or setback than the existing structure.
- (2) Structure elevation and height.
  - (a) Replacement structures shall meet elevation requirements according to *Sections 10.1 and 10.2.11 B (1) of this Ordinance* and height requirements according to *Section 10.2.11 C of this Ordinance*;
  - (b) For resorts established prior to December 18, 2007, structures not meeting the setbacks established in *Section 10.2.11 A of this Ordinance* shall only be replaced with structures with the same or lesser height of building, notwithstanding the provisions of *Section 10.2.23 C (3) of this Ordinance*.
- (3) Increase in Footprint. Replacement structures shall not increase the original structure footprint, except as follows:
  - (a) An increase in the structure footprint may be permitted to comply with minimum federal, state or local dwelling standards or codes, provided there is no increase in structure footprint lakeward and no increase in structure width as measured parallel to the shoreline;
  - (b) The replacement structure shall not include additional or new architectural elements, such as balconies, bedrooms, decks or lofts;
  - (c) Within the first tier, a replacement structure that is relocated outside the shore impact zone and moved landward to comply with setbacks from wetlands, bluffs, land below the ordinary high water level of public waters, and sewage treatment systems, may be permitted an increased structure footprint, provided:
    - (aa) It conforms with the total surface area allowed to be covered by structures in each tier as calculated in *Section 10.2.23F(3) of this Ordinance*; and
    - (bb) The impervious surface coverage within the first tier shall not exceed twenty-five (25) percent.
- (4) Natural vegetation. A specified area within the resort shall be restored and maintained in a natural state consistent with the following requirements:
  - (a) For developments with less than forty (40) percent of the shore impact zone currently in a natural state at least ten

- (10) percent of the shore impact zone and shoreline shall be restored to its natural state for each structure that is being replaced until a minimum of forty (40) percent of the shore impact zone is restored
  - (b) For developments with at least forty (40) percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained in accordance with an approved plan.
- (5) Erosion control and stormwater management.
  - (a) An erosion control plan pursuant to *Section 7.10 of this Ordinance* is required;
  - (b) A stormwater management plan that addresses stormwater runoff from the replacement structures and associated impervious surfaces shall be developed using best management practices and designed and installed in accordance with the Minnesota Pollution Control Agency's current stormwater management manual. Such practices may include, but shall not be limited to, filter strips, infiltration basins, rain gardens and other conservation designs. The minimum BMP's shall meet the following requirements:
    - (aa) The ten (10) year, twenty four (24) hour pre-development discharge rate for all conveyance systems and discharges to water bodies or onto other properties.
    - (bb) Infiltrate the first one-half (1/2) inch of runoff on all existing and newly created impervious surfaces.
    - (cc) Runoff volume of water leaving the property is not increased from existing conditions at time of application.
- (6) Shoreline recreation facilities shall meet the requirements of *Section 10.2.23E of this Ordinance*.
- (7) The shore impact zone, based on normal structure setbacks, shall be included as open space and at least forty (40) percent of the shore impact zone shall be preserved in its natural state. Additionally, a minimum of fifty (50) percent of the total lot area shall be dedicated as open space.
- (8) Resorts shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Pollution Control Agency and Stearns County. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area, free of limiting factors, shall be provided for a replacement soil treatment system for each sewage system.
- (9) Structures, parking areas and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent

shoreland by vegetation, topography, increased setbacks, color or other means acceptable to the County, assuming summer, leaf-on conditions. Vegetation and topographic screening shall be preserved, if existing, or may be required to be provided.

- (10) Accessory structures and facilities, except water oriented accessory structures, shall meet the required structure setback and shall be centralized.
  - (11) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in *Section 10.2.11 B (2) of this Ordinance* and are centralized.
  - (12) Parking shall meet the requirements of *Section 7.19 of this Ordinance*, unless otherwise approved by the Board. Parking of vehicles and trailers shall be limited to designated parking areas.
- D. Resort expansion.

Pursuant to *Section 4.8 of this Ordinance*, existing resorts may be allowed to expand so long as the facility continues to operate as a resort and all of the following criteria are met:

- (1) Allowable density. There is available additional density as calculated in *Section 10.2.23 F (3) of this Ordinance*, and the expansion will not exceed the allowed density.
- (2) The impervious surface coverage shall not exceed twenty-five (25) percent within the total resort area and in any tier.
- (3) Structure setbacks and maximum heights.

- (a) Resorts created after December 18, 2007 shall comply with the following standards:

- (aa) Minimum setbacks:

<u>Shoreland Class</u>	<u>OHWL Setbacks(feet)</u>
Natural environment	200
Recreational development	150
General development	120
Forested and transition river	150
Agricultural, urban, and tributary river segments	100

- (bb) Height restrictions pursuant to *Section 10.2.11C of this Ordinance* are met

- (b) Resorts in operation prior to December 18, 2007 shall comply with the following standards:

- aa) Minimum setbacks:

<u>Shoreland Class</u>	<u>OHWL Setbacks(feet)</u>
Natural environment	200
Recreational development	100
General development	75
Forested and transition river	150
Agricultural, urban, and tributary river segments	100

- bb) Height restrictions pursuant to *Section 10.2.11C of this Ordinance* are met
- (4) On-site water supply and subsurface sewage treatment systems shall be designed and installed to meet or exceed applicable standards and rules of the *Stearns County Sewage Treatment Ordinance Number 422; or successor ordinance*.
  - (5) Where applicable, a marina permit has been obtained from the Department of Natural Resources pursuant to *Minnesota Rules, part 6115.021; or successor rules*.
  - (6) Natural vegetation. A specified area within the resort shall be restored and maintained in a natural state consistent with the following requirements:
    - (a) For developments with less than forty (40) percent of the shore impact zone currently in a natural state at least ten (10) percent of the shore impact zone and shoreline shall be restored to its natural state for each structure that is proposed under the expansion until a minimum of forty (40) percent of the shore impact zone is restored
    - (b) For developments with at least forty (40) percent of the shore impact zone currently in a natural state, this condition shall be preserved and maintained in accordance with an approved plan.
  - (7) Erosion control and stormwater management.
    - (a) An erosion control plan pursuant to *Section 7.10 of this Ordinance* is required;
    - (b) A stormwater management plan that addresses stormwater runoff from all structures and associated impervious surfaces shall be mitigated using best management practices designed and installed in accordance with the Minnesota Pollution Control Agency's current stormwater management manual. Such practices may include, but shall not be limited to, filter strips, infiltration basins, rain gardens and other conservation designs. The minimum BMP's shall meet the following requirements:
      - (aa) The ten (10) year, twenty four (24) hour pre-development discharge rate for all conveyance systems and discharges to water bodies or onto other properties.
      - (bb) Infiltrate the first one-half (1/2) inch of runoff on all existing and newly created impervious surfaces.
      - (cc) Runoff volume of water leaving the property is not increased from existing conditions at time of application.
  - (8) Shoreline recreation facilities shall meet the requirements of *Section 10.2.23E of this Ordinance*.
  - (9) The shore impact zone, based on normal structure setbacks, shall be included as open space and at least forty (40) percent of the shore impact zone shall be preserved in its natural state.

Additionally a minimum of fifty (50) percent of the total lot area shall be dedicated as open space.

- (10) Resorts shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and subsurface sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Pollution Control Agency and Stearns County. Subsurface sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area, free of limiting factors, shall be provided for a replacement soil treatment system for each sewage system.
- (11) Structures, parking areas and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color or other means acceptable to the County, assuming summer, leaf-on conditions. Vegetation and topographic screening shall be preserved, if existing, or may be required to be provided.
- (12) Accessory structures and facilities, except water oriented accessory structures, shall meet the required structure setback and shall be centralized.
- (13) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in *Section 10.2.11 B (2) of this Ordinance* and are centralized.
- (14) Parking shall meet the requirements of *Section 7.19 of this Ordinance*, unless otherwise approved by the Board. Parking of vehicles and trailers shall be limited to designated parking areas.

E. Shoreline recreation facilities.

Shoreline recreation facilities provided by a resort shall comply with all of the following provisions:

- (1) All shoreline recreation facilities shall comply with *Minnesota Rules, part 6115.0210*; or successor rules.
- (2) Shoreline recreation facilities, including but not limited to beaches, docks, swimming areas, watercraft mooring and launching facilities, shall be clustered or grouped in suitable areas. Evaluation of suitability shall include consideration of land slope, type of resort, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock and other relevant factors;
- (3) Watercraft mooring and launching facilities shall be located adjacent to the deepest water available and avoid or minimize impacts to aquatic vegetation;
- (4) Continuous docking space of watercraft shall only be used by transient, short-term lodgers at the resort and shall be limited to one mooring space for each authorized dwelling unit(s) or campsite(s). The resort licensee may also have one dock for personal use;
- (5) If the waterbody does not have a public access, boat launching facilities, including a ramp and small dock for loading and

unloading equipment, may be provided for use by resort guests or the general public;

- (6) Non-guest vehicles shall be parked so they are screened by vegetation or topography as much as practical from view from the water.
- (7) Unless approved by the Board in accordance with *Section 4.8 of this Ordinance*, shoreline recreation facilities for new resorts pursuant to *Section 10.2.23B of this Ordinance* shall be no larger than thirty five (35) percent of the total shoreline. In determining whether the proposed shoreline recreation facility can exceed thirty five (35) percent, the Board will consider, but not be limited to, the following: aquatic and shoreline vegetation, topography, type of resort, stormwater management and vegetative buffer, water depth, soils, depth to groundwater and bedrock and other relevant factors.

**F. Development density.**

The allowable development density for resorts shall be determined as follows:

- (1) The tract of land occupied by the resort shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward. The distance to be used to determine the interval of each tier shall be taken from the following table:

<b>Shoreland Class - Tier</b>	<b>Tier Interval (feet)</b>
General Development Lakes - First Tier (Nearshore Area)	200
General Development Lakes - Second Tier (Lakeview Area)	267
Recreational Development Lakes - First Tier (Nearshore Area)	267
Recreational Development Lakes - Second Tier (Lakeview Area)	267
General and Recreational Development – 3rd Tier (Forestview Area)	all remaining lot area
All River classes – One Tier Only	300

- (2) The appropriate surface area ratio that can be covered by structures shall be determined from the following table:

<b>Shoreland Class</b>	<b>Surface Area Ratio</b>
General Development Lakes - First Tier (Nearshore Area)	0.125
General Development Lakes - Second Tier (Lakeview Area)	0.075
Recreational Development Lakes - First Tier (Nearshore Area)	0.075

Recreational Development Lakes - Second Tier (Lakeview Area)	0.075
General and Recreational Development – 3rd Tier (Forestview Area)	0.075
Natural Environment Lakes - All Tiers	0.038
All River classes – One Tier Only	0.038

(3) The total land area within each tier, excluding all wetlands, bluffs, and any land below the ordinary high water level of public waters, shall be multiplied by the appropriate surface area ratio from *Section 10.2.23F(2) of this Ordinance* and applied as follows: The resulting quantity shall be the total land surface area that can be covered by structure within each tier; except

(a) For recreational campgrounds, the total land area within each tier, excluding all wetlands, bluffs, and any land below the ordinary high water level of public waters, shall be divided by a minimum of four hundred (400) square feet for each campsite and two thousand (2,000) square feet for each mobile home or recreational vehicle site in order to determine the land surface area that can be covered.

(4) Allowance for higher densities.

- (a) Higher densities may be allowed in the second and third tiers on general development and recreational development lakes based on exceeding the design criteria set forth in *Section 10.2.23B (6) of this Ordinance*; or
- (b) On those lakes where over fifty (50) percent of the shore impact zone is permanently protected in its natural state, a higher density may be allowed for each tier;
- (c) Where a higher density is permitted under Items A and B above, the following table shall be used in lieu of the table in *Section 10.2.23 F (2) of this Ordinance* to determine the appropriate surface area ratio used to calculate the total land surface area that can be covered by structures within each tier in *Section 10.2.23 F (3) of this Ordinance*:

Shoreland Class	Surface Area Ratio
General Development Lakes - all tiers	0.125
Recreational Development Lakes - first tier (Nearshore Area)	0.075
Recreational Development Lakes - second and third tier	0.100

(5) Allowable densities may be transferred from any tier to any other tier further from the shoreline of the lake or river, but shall not be transferred to any other tier closer to the shoreline.

G. Conversions.

This section does not apply to resorts pursuant to *Section 10.2.23 C and D of this Ordinance*. Existing resorts may be converted to a

planned unit or residential development provided the following standards are met:

- (1) Conversions to planned unit developments shall be evaluated using the procedures and standards set forth in *Section 10.2.23A, B, E and F of this Ordinance*. All inconsistencies between existing features of the resort and the standards in *Section 10.2.23A, B, E and F of this Ordinance* shall be identified and corrected;
- (2) For conversions to residential lots, all inconsistencies between existing features of the resort and the standards in *Section 10.2.23G(3) and (4) of this Ordinance* shall be identified and corrected, except that deficiencies in suitable area may be addressed using approved mitigation measures. Dwelling units or dwelling site densities shall meet the standards in *Section 10.2.8 of this Ordinance* for conversions to residential lots.
- (3) Deficiencies in water supply and sewage treatment, impervious surface coverage, common open space and shore recreation facilities shall be corrected pursuant to applicable standards as part of the conversion.
- (4) Shore and bluff impact zone deficiencies shall be corrected pursuant to applicable standards as part of the conversion. Where necessary, these improvements shall include the following:
  - (a) Removal of extraneous buildings, docks, boat launching areas and ramps or other facilities located in shore or bluff impact zones in order to comply with all the standards for a new residential or planned unit development, including but not limited to setbacks and shoreland alterations and restorations; and
  - (b) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet the shoreland vegetation buffer standards in *Section 10.2.23B(8) of this Ordinance*.
- (5) Maintenance of resort status.

In order to continue to qualify as an established resort pursuant to these regulations, the owner/operator of a resort created pursuant to *Section 10.2.23B of this Ordinance* shall comply with the following reporting and performance standards:

  - (a) An annual report, detailing the use of the facility and all dwelling units shall be filed with the Director.
    - (aa) The report shall document any personal use of the facility by the owner/operator or any investors, and all rental use by guests, for each dwelling-unit; and
    - (bb) The report shall document any restrictions placed on the personal use of the facility by the owner/operator or any investors.
  - (b) No resort shall adopt, create or modify covenants or other deed-registered instruments affecting the property occupied by the resort, without a determination by the Board



pursuant to *Section 4.8 of this Ordinance* that such instruments fully comply with the definition of a resort as established herein.

- (c) The owner/operator of a resort shall inform all investors, if any, of the potential for any or all dwelling units to be moved or removed in compliance with *Section 10.2.23 G (5) of this Ordinance*, should the resort cease to operate as a resort pursuant to these regulations. A copy of such notice shall be recorded with the deed for the parcel on which the resort is located.

**10.2.24 Shoreland Nonconformities**

Nonconforming uses, structures and lots within the Shoreland Overlay District shall be managed in accordance with *Section 5 of this Ordinance*.

**10.2.25 Islands**

Residential dwellings shall be prohibited on all islands, whether shown or not shown on the zoning map.

**10.2.26 Compliance Inspections**

A compliance inspection for existing subsurface sewage treatment systems shall be conducted prior to the issuance of any permit or granting or denying of any variance for property located in shoreland. Subsurface sewage treatment systems found to be in non-compliance must be upgraded as required by *Stearns County Ordinance Number 422; or successor ordinance*.



### 10.3 Conservation Design Overlay District

#### 10.3.1 Purpose

The purpose of this overlay district is to provide development flexibility that is not allowed under base zoning in Stearns County's agricultural and natural resource areas. The conservation design overlay has two components; one focused on agricultural conservation, the other focused on natural resource conservation. The overlay may apply in two distinct areas, as described in *Section 10.3.2 of this Ordinance*; low-value agricultural sites within the A-40 District and natural resource overlay areas designated by and adopted by townships or groups of townships. Lands within this District shall also be subject to a primary zoning district and, if applicable, the Shoreland Overlay District and the Floodplain Overlay District.

#### 10.3.2 District Application

The Conservation Design Overlay District shall be applied in the following circumstances:

- A. Agricultural Conservation Design Overlay.** The Agricultural Conservation Design Overlay District is an overlay that can be applied within the A-40 primary zoning district through a rezoning process, consistent with *Section 4.10.5 of this Ordinance*. The following conditions must be met in order for an application for rezoning to the overlay to be approved:
- (1) LESA scores for the site are less than sixty five (65)
  - (2) The site is more than one half (1/2) mile from any feedlot with fifty (50) or more animal units
  - (3) The site has sufficient suitable area for development under the standards of *Section 7.5 of this Ordinance*.
  - (4) The Board approves a yield plan for the proposed overlay site that identifies the maximum development density of the site, consistent with the provisions of *Section 7.5.3 and 7.5.4 A. of this Ordinance*.
    - (a) The yield plan must be submitted with the rezoning request.
    - (b) In considering the yield plan the Board may approve or modify the maximum density. The Board shall issue findings of fact, based on the density considerations described in *Section 7.5.3 of this Ordinance*.
    - (c) Approval of the rezoning request constitutes approval of the yield plan.

- B. Natural Resource Conservation Design Overlay.** The natural resource conservation design overlay is an overlay district eligible to be used for natural resource areas designated by township governments where the designation meets the following conditions:

- (1) **Township Adopted Natural Resource Areas.** The Natural Resources Conservation Design Overlay District shall be superimposed upon those areas in all zoning districts that are

designated by the township as a natural resource conservation area, and approved by the Board as a rezoning under *Section 4.10 of this Ordinance*, consistent with the following standards:

- (a) The township has conducted a natural resource inventory and natural resource assessment to identify priority natural resource areas and protection goals, or used an existing inventory or scientific designation of high value natural resources by the Department of Natural Resources, Soil and Water Conservation District or Natural Resources Conservation Service.
- (b) The township has formally adopted a natural resource overlay plan or amended its comprehensive plan consistent with its inventory and assessment, including geographic designations of where a natural resource conservation design overlay should apply.
- (c) The township's natural resource conservation plan is consistent with the Stearns County Comprehensive Plan.
- (d) The township has designated a minimum size for the protected conservation area, not to be less than the minimum size identified in *Section 7.6 of this Ordinance*.
- (e) The township has identified sending areas for the County's natural resource transfer of development rights program, consistent with *Section 11 of this Ordinance*. If the township does not identify sending areas, the sending areas shall be assumed to be coterminous with the conservation design overlay areas.
- (f) The township submits a request to the Planning Commission to rezone the area as a Natural Resource Conservation Design Overlay District.

#### **10.3.3 Permitted Uses**

Uses permitted in the Conservation Design Overlay District shall be those uses allowed as permitted, provisional, accessory, conditional or interim in the primary zoning district or any applicable overlay district, except that conventional subdivisions shall require a conditional use permit as identified in *Sections 7.5 and 7.6 of this Ordinance*.

#### **10.3.4 Residential Density Requirements**

The number of residential dwelling units allowed shall not exceed the total number permitted under the residential density requirements of the primary zoning district or any applicable overlay district, whichever is more restrictive, except as provided in *Sections 7.5 and 7.6 of this Ordinance*.

**10.3.5 Residential Subdivision Requirements**

All residential subdivisions of land that meet the minimum size thresholds of *Sections 7.5 and 7.6 of this Ordinance* shall meet the conservation design subdivision design and conservation area requirements, except when approved as a conventional subdivision conditional use under the provisions of *Sections 7.5 and 7.6 of this Ordinance*.

**10.3.6 Residential Density Bonus**

Residential density bonuses are offered for conservation design subdivisions as described in *Sections 7.5 and 7.6 of this Ordinance*.

## 10.4 Airport Overlay District

### 10.4.1 Purpose

The purpose of the Airport Overlay District is to prevent the establishment of air space obstructions in land use safety zones of public airports. The boundaries of the Airport Overlay District are shown in *Appendix D of this Ordinance*.

- A. **District Application:** The requirements of the Airport Overlay District shall apply to structures and the use of land in land use safety zones of public airports in addition to the regulations of the underlying zoning districts.
- B. **Public Airports with Airport Zoning Ordinances:** The structure, use and height provisions of public airport zoning ordinances adopted by joint airport planning commissions and approved by the Minnesota Department of Transportation shall apply to the land use safety zone areas defined under such adopted ordinances.
- C. **Public Airports without Airport Zoning Ordinances:** Public airports without airport zoning ordinances approved by the Minnesota Department of Transportation shall comply with all provisions of *2009 Minnesota Statutes, chapter 360; or successor statutes, and Minnesota Rules, chapter 8800; or successor rules*. The structure, use and height provisions of the Minnesota Model Airport Safety Zoning Ordinance shall apply to the land use safety zone areas of public airports without approved airport zoning ordinances.
- D. **Private Airstrips:** Non-public private airstrips are governed by *Section 6.6 of this Ordinance*.

## **SECTION 11      TRANSFER OF DEVELOPMENT RIGHTS PROGRAM**

### **11.0 Purpose of Overall Transfer of Development Rights Program**

Stearns County establishes a Transfer of Development Rights (TDR) program through the provisions in this Section. The purpose of the TDR program is to provide a market-based option for selling development rights rather than using development rights to build structures in areas where agricultural protection or natural resource protection are primary. The TDR program shall be in effect in two areas of the County: agricultural areas; and the Avon Hills Policy Area.

### **11.1 Transfer of Development Rights**

#### **11.1.1 Purpose**

The purpose of the Transfer of Development Rights regulations in agricultural areas is to provide a voluntary, incentive-based process for permanently protecting agricultural resources while promoting development in areas more appropriate for development, such as less productive areas and areas planned for future urban services. The regulations are also intended to provide additional economic opportunities for landowners in low-density agricultural zoning districts and to reduce barriers to a well functioning market for development rights. The Transfer of Development Rights regulations specifically implement the following goals and objectives from the 2008 Stearns County Comprehensive Plan.

**A. Land Use Goal 1.** Sustain agriculture as a desirable land use for the long term.

(1) Objective 1. Nurture and preserve a sound agricultural economy.

(2) Objective 2. Preserve highly valued farmland for agricultural pursuits.

**B. Land Use Goal 3.** Manage the impacts of growth and development on the County's rural character.

(1) Objective 1. Discourage incompatible land uses through effective land use controls.

(2) Objective 2. Identify appropriate areas for commercial, industrial, and non-farm rural residential developments.

(3) Objective 3. Deter premature development in rural areas and in urban expansion areas around cities.

**C. Land Use Goal 5.** Use existing infrastructure and resources efficiently.

(1) Objective 1. Coordinate infrastructure expansion with development; and encourage development where the infrastructure is adequate to serve that growth.

**D. Land Use Goal 7.** Identify and preserve important natural systems and sensitive natural resources.

(1) Objective 2. Develop and employ land use regulations and other techniques for natural resource protection, including transfer of development rights or density, best management practices, and public acquisition.

**E. Natural Resources Goal 3.** Protect the County's agricultural natural resources.

(1) Objective 1. Protect agricultural soils and other agricultural resources by regulating non-agricultural land uses in areas with agricultural soils.

### **11.1.2 Statutory Authorization**

The State of Minnesota in *Minnesota Statutes, Section 394.25 subd.2; or successor statute*, specifically authorizes counties to adopt zoning ordinances that establish land use districts allowing the transfer of development rights from areas where preservation is desirable to areas more desirable for development.

### **11.1.3 Township and Municipal Approval Required**

**A. Township Approval.** Transfer of Development Rights program sending or receiving areas may be established within a Township only if:

- (1) Resolution required. The Township has agreed by resolution of the Township Board to participate in the Stearns County Transfer of Development Rights program, and;
- (2) Growth areas defined. The Township has identified growth areas and adopted a growth area plan consistent with the 2008 Stearns County Comprehensive Plan, and;
- (3) Township Review of Each Transaction Required. Every proposed transfer of development rights transaction must be reviewed by the Township Board in which sending or receiving parcels are proposed.

### **11.1.4 Urban Expansion Districts**

A receiving area may be established within an Urban Expansion District only if the Township and affected municipality agree by resolution of each or by joint powers agreement to receiving area regulations consistent with this Ordinance. Sending areas shall not be established within an Urban Expansion District or urban expansion areas identified in the Comprehensive Plan.

### **11.1.5 Sending and Receiving Areas**

The Agricultural Area Transfer of Development Rights program in Stearns County is a two area program that defines geographically separate sending and receiving areas. Residential development rights may only be transferred out of sending areas and may only be transferred and used in receiving areas. Sending areas are where agricultural protection is the desired outcome. Receiving areas are where more intensive development is desired and supported by transportation and utility infrastructure. Sending parcels are parcels from which development rights are transferred. Receiving parcels are parcels to which development rights are transferred.

**A. Sending Areas Defined.** Residential development rights may be transferred from parcels in the following zoning districts to any receiving area defined in *Section 11.1.5 C of this Ordinance*:

- (1) A-160
- (2) A-80
- (3) A-40

**B. Calculating Development Rights That May be Sent From Sending Areas.**

The number of residential development rights that may be transferred from a parcel shall be equal to the unused residential dwelling sites as calculated under the provisions for the zoning district within which the parcel lies.



**C. Receiving Areas Defined.** Residential development rights may be transferred to the following districts only if the Township or Municipality containing the receiving area has met the requirements of *Section 11.1.3 of this Ordinance*:

- (1) Rural Townsite District
- (2) A permitted open space or agricultural conservation design development within an A-40 zoning district
- (3) Urban Expansion District
- (4) Growth areas defined by the township that are consistent with the Stearns County Comprehensive Plan

**D. Calculating Development Rights That May be Used in Receiving Areas.** A single residential development right may be transferred from a sending area to a receiving area and used in the following manner:

- (1) Rural Townsite Districts – One to Two. A single residential development right may be used in a Rural Townsite District to increase the base number of permitted residential dwellings by two (2) additional residential dwelling units. The additional residential dwellings may be single-family residential dwellings or two-family residential dwellings. A maximum of one additional dwelling unit per acre may be added to the base density. All lot-line setback provisions of the Rural Townsite District and all wastewater management standards shall be met.
- (2) Conservation Design in A-40 Districts – One to One. A single residential development right may be transferred to permitted Conservation Design development to earn a single residential bonus density. The maximum number of bonus density units allowed to be earned by transferring development rights is limited in *Section 7.5.3 of this Ordinance* conservation design overlay provisions.
- (3) Urban Expansion District – One to One. A single residential development right may be transferred to the Urban Expansion District to earn a single residential bonus density under the Urban Expansion District cluster development standards unless the Orderly Annexation Agreement provides for a different calculation. All lot-line setback provisions and ghost-platting provisions of the Urban Expansion District shall be met, however, lot size and other dimensional standards may be altered based on a joint determination by the Township Board and City Council of the affected municipality.
- (4) Growth areas defined by the township – One to One. A single residential development right may be transferred to a growth area defined by the township that is consistent with the Stearns County Comprehensive Plan to earn a single residential bonus density.

#### **11.1.6 Review and Documentation of Transfer**

**A. Administrative Review.** While transfers of development rights are privately negotiated transactions between the owner of the sending parcel and a developer or owner of a receiving parcel, Stearns County has an interest in reviewing proposed transfers for compliance with the provisions of this Section. The transfer of residential dwelling rights from a sending parcel is not subject to the subdivision requirements of this Ordinance.

**B. Application Required.** Any proposed transfer of a residential dwelling right from a sending parcel shall be reviewed by the Director. A transfer of development rights review application shall be completed jointly by the owner of the parcel from which a dwelling right is proposed to be transferred and the owner of the parcel to which a development right is proposed to be transferred. The application shall require a description of the receiving parcel and a description of the type of development intended on the receiving parcel. Administrative review shall not be complete until proof of recording of the conservation easement required in *Section 11.1.6 E.(1) of this Ordinance* is received by the Director.

**C. Tracking of Development Rights Transfers.** The Director shall be responsible for keeping up-to-date records of development rights transfers, including notations on the Official Zoning Map.

**D. Documentation of Transfer from Sending Parcels**

- (1) Conservation Easement required. The intent of transferring residential development rights from a sending parcel is to ensure the future viability of agricultural uses or natural resources in the area. Therefore, a conservation easement, as authorized by *Minnesota Statutes, chapter 84C; or successor statutes* shall be placed on the sending parcel at the time one or more residential development rights are transferred from the parcel. The transfer of a development right shall not be effective until the signing of a conservation easement by the owner of the sending parcel and the recording of the conservation easement in the Office of the County Recorder.
- (2) Conservation Easement terms. The conservation easement shall restrict future development of the sending parcel to the number of residential development rights remaining under current zoning after residential development rights have been transferred. For example, if a landowner in the sending area A-40 owns two hundred (200) acres and sells two TDRs, the landowner will have three (3) remaining residential development rights to either use on the property or sell as TDRs. Agricultural, natural resource management, and open space uses shall be allowed by the terms of the conservation easement. Should the zoning of the sending parcel be changed in the future to allow additional density, the number of development rights already used shall be subtracted from the total number of units permitted under the new zoning.
- (3) Authorized Conservation Easement holders. A conservation easement must be held and enforced by a third party who is not the owner of the sending parcel. The conservation easement shall be held by an entity authorized to hold conservation easements under *Minnesota Statutes, chapter 84C; or successor statutes*, which includes federally-recognized non-profit conservation organizations and units of government. The authorized entity may be Stearns County.

**E. Documentation of Transfer to Receiving Sites**

- (1) Residential development rights shall be transferred to a legally described property and shall not be held by a person.

- (2) No more than one development right shall be transferred to a single property unless a plat or administrative subdivision is being completed to utilize each development right. The transfer of development rights shall be recorded with the plat or administrative subdivision.
- (3) Prior to approval of a subdivision plat or a building permit for a receiving parcel on which development rights are proposed to be used, the owner of the parcel shall provide documentation of receipt of a transferable residential dwelling right. This documentation shall, at a minimum:
  - (a) Identify the sending parcel from which the development right is to be transferred;
  - (b) State the number of development rights transferred;
  - (c) Describe how the development rights will be used on the receiving parcel, and;
  - (d) Include a copy of the conservation easement placed on the sending parcel restricting the use of the development right on the sending parcel.

#### **11.1.7 Development Rights Information Clearinghouse**

The County may, at its discretion, establish a forum for the exchange of information about development rights. This forum may be used to post the availability of development rights for sale. The establishment and operation of an information forum shall not constitute real estate brokerage activity.

#### **11.1.8 Transfer of Development Rights Bank**

A Transfer of Development Rights Bank shall not be allowed. All development rights shall be transferred to a legally described property in accordance with *Section 11.1.6 of this Ordinance*.

### **11.2 Transfer of Development Rights – Natural Resource Conservation Design Overlay**

The regulations in this Section, 11.2, apply within the Natural Resource Conservation Design Overlay District, as defined in *Section 10.3 of this Ordinance*.

#### **11.2.1 Purpose**

The purpose of the Transfer of Development Rights regulations in the Natural Resource Conservation Design Overlay District is to protect important natural resources by transferring development rights away from these areas and into natural resource conservation subdivisions. This section specifically implements the following goals from the Stearns County Comprehensive Plan:

- A. Land Use Goal 3.** Manage the impacts of growth and development on the County's rural character.
  - (1) Objective 1. Discourage incompatible land uses through effective land use controls.
  - (2) Objective 3. Deter premature development in rural areas and in urban expansion areas around cities.
- B. Land Use Goal 5.** Use existing infrastructure and resources efficiently.

- (1) Objective 1. Coordinate infrastructure expansion with development; and encourage development where the infrastructure is adequate to serve that growth.

**C. Land Use Goal 7.** Identify and preserve important natural systems and sensitive natural resources.

- (1) Objective 2. Develop and employ land use regulations and other techniques for natural resource protection, including transfer of development rights or density, best management practices, and public acquisition.

**11.2.2 Sending Areas Defined**

Residential development rights may be transferred from any parcel in the Natural Resource Conservation Design Overlay District

**11.2.3 Receiving Areas Defined**

Residential development rights may be transferred only to a natural resource conservation subdivision.

**11.2.4 Calculating Development Rights That May be Used in Receiving Areas**

A single residential development right may be transferred from a sending area to be used as a single residential development right in a receiving area. The maximum number of density units allowed to be transferred into a Natural Resource Conservation Subdivision is two (2) per forty (40) acres, contingent upon the conservation design standards being met at the increased density.

**11.2.5 Administration**

The administrative provisions of *Sections 11.1.6 of this Ordinance* shall apply to transfers of development rights in the Natural Resource Conservation Design Overlay District.

## SECTION 12      ENFORCEMENT

- 12.1 Purpose.** The purpose of this Section is to provide an administrative process for enforcing the provisions of the Stearns County Land Use and Zoning Ordinance and for determining and resolving ordinance violations. This administrative process is established pursuant to authority granted by *Minnesota Statutes, chapter 394; or successor statutes.*
- 12.2 Reasonable Investigation.** Alleged ordinance violations shall be referred to the Director. The Director, or the Director's designee, shall make a reasonable investigation and determine whether or not a violation exists. If it is determined that a violation exists, then a violation report shall be prepared establishing the facts supporting the determination that an ordinance violation exists. The Director, or the Director's designee, may also prepare an administrative order setting forth, as a minimum, the following:
- (1) the action required on the part of the property owner to eliminate or resolve the violation; and
  - (2) a reasonable time in which the violation must be remedied; and
  - (3) informing the property owner of their right to appeal the order and determination to the Board of Adjustment within (10) days of their receipt of the administrative order.
- 12.3 Service of Order and Report; Record.** If an administrative order is drafted, then the Director shall serve the order and report upon the record owner of the property upon which the violation exists. Service of the order shall be made by personal service in the same manner as in a civil action. Service of subsequent documents shall be made by mail and shall be deemed effective upon depositing such documents in the United States Mail with proper postage affixed and prepaid and addressed to the record owner of the property at the address on file with the County Auditor-Treasurer for sending property tax statements or such other address as may be provided by the record owner in writing. The violation report shall constitute the administrative record supporting determination of the violation and issuance of the administrative order.
- 12.4 Appeal of Determination and Administrative Order.** Upon service of the violation report and administrative order, the record owner of the property shall have ten (10) business days to appeal the order and determination of violation by the Director to the Board of Adjustment pursuant to *Minnesota Statutes, section 394.27, subdivision 6; or successor statutes.* Appeal shall be taken by serving written notice of intent to appeal, specifying the grounds on which the appeal is taken, on the Department within said ten (10) business day period. The Department shall accept service of notice of such appeal on behalf of the Board of Adjustment. If no appeal is taken, then both the facts established in the report and the administrative order shall be deemed a final decision.
- 12.5 Hearing Before the Board of Adjustment; Findings and Decision.** If written notice of appeal is received as provided in *Section 12.4 of this Ordinance*, then the

Director shall schedule a hearing on said appeal before the Board of Adjustment at the earliest practicable time and consistent with the provisions of the *Stearns County Land Use and Zoning Ordinance Number 209* and applicable state law. Public notice of the hearing shall be given as provided by *Minnesota Statutes, section 394.26 or successor statutes*. The Board of Adjustment shall conduct the hearing and may develop hearing procedures consistent with *Stearns County Ordinance Number 208; or successor ordinances*, and with state law. The Director, or the Director's designee, shall present the report establishing the violation and any additional facts, testimony or information as may be available to support the Director's determination. The record owner of the property may present facts, testimony or information supporting the appeal. The public shall also be given a chance to present facts, testimony and information. The Board of Adjustment may take and consider all testimony and information that it deems relevant in making its decision. The Board of Adjustment shall make a record capable of being transcribed of the proceedings and shall preserve all written and pictorial information presented and received at the hearing. Upon conclusion of the hearing, the Board of Adjustment may, in whole or in part, uphold the order, reverse the order or amend the order. The Board of Adjustment shall make written findings of fact and state the reasons for its decision in writing. Said Findings and Decision shall constitute the final decision of the Board of Adjustment.

**12.6 Notice of Decision; Appeal to District Court.** The Findings and Decision of the Board of Adjustment shall be mailed to the appellant with the proper postage affixed and prepaid and addressed to the record owner at the address on file with the County Auditor-Treasurer for sending property tax statements or such other address as may be provided by the record owner in writing. Once mailed, the Findings and Decision shall serve as the appellant's notice of the decision. Said notice shall be deemed effective, with respect to the appellant record owner, three (3) days after the Findings and Decision are deposited in the United States Mail. The Findings and Decision shall also be posted on the County's official notice board for three (3) days and shall serve as notice of the decision to the public. A copy of the Findings and Decision shall also be made available for public inspection in the Office of the Director. Any aggrieved person may appeal the decision of the Board of Adjustment to the District Court, pursuant to *Minnesota Statutes, section 394.27, subdivision 9; or successor statutes*, within thirty (30) days of notice of the decision.

**12.7 Enforcement of Final Decisions; No Remedy Exclusive.** Pursuant to *Minnesota Statutes, section 394.27; or successor statutes*, the County Attorney may institute such actions as may be necessary to enforce final decisions issued hereunder. This enforcement method is not exclusive, but is in addition to any other right, remedy or cause of action the County may have to eliminate or resolve violations of this Ordinance. All such rights, remedies and causes of action may, in the County's sole discretion, be exercised separately or in conjunction with one another and with such frequency as the County deems appropriate.

- 12.8 Circumstances Constituting a Violation.** Any person, firm 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 established in connection with the granting of variances, constructions site permits, shoreland alteration permits and conditional and interim use permits or failures to comply with restoration orders, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense. Custodial arrest shall not be used as a means of enforcing this Ordinance.
- 12.9 Remedies Available.** In the event of a violation or a threatened violation of this Ordinance, the Director, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

## **SECTION 13 FEES**

To defray the administrative costs of processing requests of this Ordinance, a fee not exceeding administrative costs shall be paid by the applicant. Such fee shall be determined by the County Board of Commissioners.

- 13.1 Non-payment of Fees.** If any fee required to be paid to the County to defray the cost of services related to administering this Ordinance is not paid by an applicant, the Board may certify to the County Auditor-Treasurer by November 30 all unpaid, outstanding fees and a description of the lands against which the costs arose. It shall be the duty of the County Auditor-Treasurer, upon order of the County Board, to extend the assessments with interest not to exceed the interest rate provided for in *Minnesota Statutes, section 279.03, subdivision 1; or successor statutes*, upon the tax roles of the County for the taxes of the year in which the assessment is filed. For each year ending November 30, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real and/or personal property taxes in accordance with the provisions of the laws of the State of Minnesota. The assessment, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the State of Minnesota.
- 13.2 Appeals.** Appeals of the imposition of fees associated with administering this Ordinance shall be heard by the Environmental Service Fee Appeals Panel according to the following steps.

- A. The Director shall accept written applications for appeals of fees to the Environmental Service Fee Appeals Panel and forward said applications to the appeals panel.
- B. The appeals application shall contain supporting facts and documentation in sufficient detail to allow a determination as to whether the facts warrant granting an appeal.
- C. The appeals panel shall consider and decide appeals. The decisions of this panel shall be final. The appeals panel may uphold the imposition of fees, modify or forgive fees based upon whether or not there were administrative or clerical errors on the part of the County, whether or not the applicant actually applied for and/or received a County service or if there are exceptional circumstances under which the strict enforcement of this Section would cause undue hardship and would be unreasonable, impractical or not feasible.
- D. The Director shall notify the appellant of the decision and shall schedule a public hearing with the Board for all appeals which have been denied and which are to be placed upon the tax roles of the County.

#### **SECTION 14 EFFECTIVE DATE**

This Ordinance shall be in full force and effect on June 22, 2010.

#### **SECTION 15 REPEALER**

The Stearns County Land Use and Zoning Ordinance Number 209, adopted March 28, 2000, amended by Ordinance Number 211 on August 22, 2000; Ordinance Number 228 on May 22, 2001; Ordinance Number 234 on June 26, 2001; Ordinance Number 235 on August 21, 2001; Ordinance Number 247 on December 18, 2001; Ordinance Number 265 on October 1, 2002; Ordinance Number 293 on January 27, 2004; Ordinance Number 310 on May 18, 2004; Ordinance Number 321 on November 16, 2004; Ordinance Number 322 on December 21, 2004; Ordinance Number 336 on June 21, 2005; Ordinance Number 361 on June 27, 2006; Ordinance Number 369 on May 22, 2007; Ordinance Number 387 on October 2, 2007; Ordinance Number 388 on February 5, 2008; Ordinance Number 390 on November 20, 2007; Ordinance Number 399 on March 25, 2008; Ordinance Number 404 on June 17, 2008; Ordinance Number 421 on April 28, 2009; Ordinance Number 427 on July 14, 2009; and Ordinance Number 433 on December 8, 2009 is hereby repealed.

PASSED BY THE STEARNS COUNTY BOARD OF COMMISSIONERS THIS 25<sup>th</sup> DAY OF MAY, 2010.

APPROVED:

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Mark Sakry, Chair  
Stearns County Board of Commissioners

ATTEST:

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Randy R. Schreifels  
Stearns County Auditor-Treasurer  
Clerk of the Board, Stearns County Board of Commissioners