



THE LYON COUNTY ZONING ORDINANCE

AN ORDINANCE FOR THE PURPOSE OF PROMOTING HEALTH, SAFETY, ORDER AND GENERAL WELFARE, BY REGULATING THE USE OF LAND, THE LOCATION, ARRANGEMENT AND USE OF BUILDINGS, THE DENSITY OF POPULATION, AND THE ORDERLY DEVELOPMENT OF THE AREA OF LYON COUNTY, MINNESOTA OR PARTS THEREOF OUTSIDE THE INCORPORATED LIMITS OF THE MUNICIPALITIES.

Effective: April 1, 2015

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ARTICLE 1. PURPOSES AND INTENT

This Ordinance is enacted for the following purposes: to promote the health, safety, and general welfare throughout Lyon County by lessening congestion in the public rights-of-way, securing safety from fire, panic and other dangers, and providing adequate light and air; to facilitate the adequate provision of water, sewerage and other public requirements; to conserve the value of properties and encourage the most appropriate use of land; and to carry on county planning and zoning activities pursuant to Minnesota Statutes 394.21 as amended.

ARTICLE 2. TITLE

This Ordinance shall be known and may be cited and referred to as the "Lyon County Zoning Ordinance"; when referred to herein, it shall be known as "this Ordinance."

ARTICLE 3. JURISDICTION, SCOPE AND INTERPRETATION

SECTION 3.1 JURISDICTION.

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

SECTION 3.2 SCOPE.

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

The subdivision of land may also be governed by the County's Subdivision Ordinance.

SECTION 3.3 INTERPRETATION.

- A. The provisions of this Ordinance are the minimum requirements for the promotion of the public health, safety, comfort and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling. Where the provisions within this Ordinance conflict, the more restrictive shall apply.
- B. This Ordinance shall be construed to give effect to all the Ordinance provisions. When the words of this Ordinance are ambiguous, the following shall be considered:
 - 1. The occasion and necessity for the Ordinance or specific provision,
 - 2. The circumstances under which this Ordinance or any provision was enacted,
 - 3. The mischief to be remedied,

4. The object to be attained,
5. The Comprehensive Plan,
6. The former Lyon County Zoning Ordinance,
7. The consequences of a particular interpretation, and/or
8. Administrative interpretations of this Ordinance and interpretations concurred upon by the Planning Commission, Board of Adjustment and County Board.

ARTICLE 4. RULES AND DEFINITIONS

SECTION 4.1 RULES.

- A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The words "must" and "shall" are mandatory, not discretionary. The word "may" is permissive.
- C. Words used in the present tense shall include the future. Words used in the singular shall include the plural, and the plural the singular.
- D. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
- E. All stated and measured distances shall be taken to the nearest integral unit of measure. If a measured distance is one-half ($\frac{1}{2}$) unit or less, the unit next below shall be taken.
- F. All distances, unless otherwise specified, shall be measured horizontally.
- G. The word "lot" shall include the terms "parcel" or "tract".
- H. Unless otherwise defined herein, words or phrases used in this Ordinance shall have the meaning given in other applicable Lyon County Ordinances, Minnesota Statutes and Rules, and federal laws where applicable.
- I. All words or phrases used in this Ordinance that are not defined in A-I above shall be interpreted so as to give the same meaning as they have in common usage and so as to give this Ordinance its most reasonable interpretation.

SECTION 4.2 DEFINITIONS.

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

Adult Establishments. An adult establishment is any establishment in which an adult use comprises more than 10 percent of the floor area of the establishment in which it is located, or more than 20% of the gross receipts in any month for the entire business operation.

Adult Use. An adult use is any of the activities and businesses described below:

- (a) 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 the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."
- (b) 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, DVD or motion picture film if such building or portion of a building excludes minors by reason of age, and if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (c) Adult Use - Cabaret: A building or portion of a building for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, or depiction of "specified sexual activities" or "specified anatomical areas."
- (d) Adult Use - Car Wash: A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or other persons to appear in a state of partial or total nudity in terms of "specified anatomical areas."
- (e) Adult Use - Companionship Establishment: A companionship establishment which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (f) Adult Use - Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (g) Adult Use - Health/Sport Club: A health or sport club which excludes minors by reason of age, if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- (h) Adult Use - Hotel or Motel: A hotel or motel where minors are specifically excluded from patronage by reason of age and where material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- (i) Adult Use - Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (j) Adult Use - Miscellaneous: Any establishment, business, or service whose products or services are substantially or significantly distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (k) Adult Use - Mini-Motion Picture Theater: A building or portion of a building with a capacity for less than 50 persons used for presenting material if such material is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." The phrase "used for" in this definition means a regular and substantial course of conduct and not a one-time presentation of such material.
- (l) 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 "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- (m) 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 motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas." The phrase "used for" in this definition means a regular and substantial course of conduct and not a one-time presentation of such material.

- (n) Adult Use - Motion Picture Theater: A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age and if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (o) 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.
- (p) 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 "specified sexual activities" or "specified anatomical areas."
- (q) 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 "specified sexual activities" or "specified anatomical areas."

Agricultural Use. The use of land and associated structures for the growing, production and/or harvesting of crops, livestock, livestock products, limited agriculture, lands in a government conservation program and incidental and accessory activities and uses, in accordance with generally accepted practices and all related laws and regulations, including but not limited to the following:

- (a) *Crops*, including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, sugar beets, edible beans, and wheat;
- (b) *Livestock*, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, other game such as deer and elk, llamas, buffalo, and other animals including ostrich, emu, rabbits, mink and other exotic animals;
- (c) *Livestock products*, including but not limited to: milk, butter, cheese, eggs, meat, and fur;
- (d) *Limited agriculture*, including but not limited to: horticulture or nursery stock, fruit, orchards, vegetables, forage grains and bee products;

- (e) Lands enrolled in a government conservation program.
- (f) *Incidental and accessory activities and uses*, including but not limited to:
 - (1) Pasture, woodland or meanderland held and/or operated in conjunction with other agricultural uses described in this definition;
 - (2) On-site constructing and maintaining of equipment and facilities used on the premises for the activities described in this definition;
 - (3) Preparing, packing, treating, storing or disposing of the products or by-products raised on the premises described in this definition;
 - (4) Retail selling by the producer of products raised on the premises described in this definition;
- (g) Uses defined herein as Kennels, Salvage Yards or Extended Home Occupations are not Agricultural Uses. These uses are permitted in the Agricultural District with a Conditional Use Permit. They are separate businesses and regulated as such herein.

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

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

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.

Board of Adjustment. A quasi-judicial body, created by this Ordinance, whose responsibility it is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances permissible under the terms of this Ordinance.

Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 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 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- (d) The slope must drain toward the waterbody.

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

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

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

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

Building. See structure.

Building Height. The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs.

Building Line. A line parallel to a lot line, or the ordinary high water level where applicable, at the minimum required setback beyond which a structure may not extend.

County. Lyon County, Minnesota.

County Board. Includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Lyon County Board of Commissioners.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Depth of Lot. The mean horizontal distance between the mean front street line and the mean rear lot line.

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

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

Dwelling, Existing. A dwelling that was previously constructed on a site and used as a dwelling within the last 5 years.

Dwelling, New. A dwelling that is to be constructed on a site (a) where a dwelling did not exist previously or (b) where a dwelling existed previously but has been unused as a dwelling for 5 years or more.

Dwelling Unit. Any structure or portion thereof designed or used exclusively for residential occupancy, or other shelter designed as short or long-term living quarters, for one family and including permanently installed individual bathrooms and complete kitchen facilities. For the purposes of shoreland management regulations, it shall also include rental or timeshare accommodations, such as a motel, hotel, and resort rooms and cabins. A camper trailer, camper bus or tent is not a dwelling unit. When considering mobile homes, see mobile homes definition. All other mobile homes are not considered to be a dwelling unit, permanent or otherwise.

- (a) Dwelling, single family. A free-standing (detached) dwelling structure designed for/or occupied by one (1) family, including manufactured homes.
- (b) Dwelling, multiple family. A dwelling structure with two (2) or more dwelling units that are attached by common walls.
- (c) Duplex, triplex, and quad. A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

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

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

Essential Services. Any surface, overhead or underground electric, gas transportation, hydro-carbon, steam, water, or refuse transmission, distribution or collection system, including both essential service lines and appurtenant essential service structures,

operated by any utility company, governmental agency, individual or cooperative company. Towers as defined in Article 20 and 21 of this Ordinance are not Essential Services.

- (a) Major Essential Services. Any essential service providing transmission services being transferred from station to station and not intended for enroute consumption, including but not limited to high voltage (greater than thirty-four and one-half (34.5) KV) electrical power lines, or bulk gas or fuel pipes. In addition, any water main 4" or greater in diameter, electric substation, sewage treatment plant or lagoon, water treatment plant, water tower or sewage lift station shall be considered a major essential service.
- (b) Minor Essential Service Facilities. All other essential services, including lines and structures, as defined herein.

Essential Service Line. Any primary or subsidiary conductor designed or utilized for the provision or maintenance of essential services including any wire, main, sewer, pipe, conduit, cable, right-of-way, but not including any structure.

Essential Service Structure. Any appurtenant structure required to be on line to accommodate the proper provision or maintenance of essential services, including any pole, drain, fire hydrant, fire alarm box, police call box, electric substation, water tower, sewage lift station, or other similar facility.

Family. Any number of individuals living together on the premises or a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.

Farmstead. The buildings and adjacent service areas of an agricultural use including lawns, windbreak and feedlot areas.

Feedlot. See Animal Feedlot.

Feedlot Confinement Facility. A type of feedlot where the animals are confined and fed under a roof or in a building.

Feedlot, Existing. Any animal feedlot in existence and having registered with the MPCA prior to January 1, 2002.

Feedlot Manure Storage Area. An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these parts.

Feedlot, New. Any animal feedlot not in existence or not having registered with the MPCA prior to January 1, 2002.

Feedlot, Non-Regulated. Any animal feeding operation not required to register with the MPCA as per Minnesota Rules, part 7020.0350 , subp. 2, as amended.

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

Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Floodfringe. That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Lyon County.

Floodplain. The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Floodplain areas within Lyon County shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

Floodproofing. The combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain, which are reasonably required to carry and store the regional flood discharge.

Gross Floor Area. The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, the exterior faces of exterior walls, or from the center line of party walls separating two buildings; the term does not include basements used for storage purposes or enclosed spaces used for off-street parking.

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

Hardship. The same as that term is defined in Minnesota Statutes, chapter 394.

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

Highway. Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Lyon County numerical route designation.

Home Occupation. An accessory use carried out by the occupant of a dwelling in which goods are produced, traded or sold, or services are otherwise rendered as an economic enterprise. Home Occupations do not include incidental garage sales, yard sales and one-time product sales parties.

Home Occupation, Extended. Any Home Occupation, which involves:

- (a) Any activity, including retail selling of products raised on the premises of an agricultural operation, which employs more than 3 persons not residing on the premises.
- (b) Repair or maintenance of equipment or vehicles other than for the owner's own personal or agricultural use;
- (c) Service, assembly or construction of goods requiring equipment other than customarily found within a home or an agricultural operation; and/or
- (d) More than 150 square feet dedicated to the display for sale or order of merchandise and/or stock not produced on the premises.
- (e) Occupying more than 25% of a dwelling, more than 25% of an attached or detached garage, or in a separate accessory structure.

Impervious Surface. An area of land that is covered by material so that it is highly resistant to infiltration by water.

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

Junk Yard. See Salvage Yard.

Kennel. An establishment in which dogs, cats, birds and similar animals commonly kept in a residence over 6 months of age are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation which may or may not be owned by the establishment owner/operator.

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 land, parcels or portions by said description for the purpose of sale, lease, transfer or separation thereof.

Lot, Corner. A lot situated at the junction of, and abutting on, two (2) or more intersecting streets. On a corner lot, both streets shall be deemed front lines for the application of this Ordinance.

Lot Area. The area of a lot on a horizontal plane bounded by the lot lines.

Lot Frontage. That portion of the lot boundary having the least width abutting on the street right-of-way.

Lot Lines. A property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

Lot of Record. Any lot which has been recorded in the Office of the County Recorder prior to the adoption of this Ordinance.

Lot Width. The shortest distance between the side lot lines of a lot, measured at the midpoint of the building line.

Manufactured Home. A structure transportable in one or more sections which is built on a permanent chassis and designed to be used with a permanent foundation and connected to the required utilities.

Mini-Storage Facility. Facility that is designed, built, and used for the purposes of renting or leasing individual storage spaces. Purpose of facility is to offer year-round storage of personal property. This definition excludes farm type structures such as machine sheds or grain bins that are rented out seasonally for storage of personal property.

Mobile Home. Designed to be moved by being built on a frame or chassis and further specifically designed and constructed so that the wheels are, or may be attached for transportation on public streets, or highways, and designed without the need for permanent foundation arriving on site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks or other foundations, connection to the utilities and the like. Mobile homes include doublewide mobile homes. Mobile homes that have a basement and meet standards of Section 15.12 would be considered a dwelling, not a mobile home.

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

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

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

Owner. Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Pastures. Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing seasons, except in the immediate vicinity of temporary supplemental feeding or watering systems.

Planning Commission. The duly appointed Planning and Zoning Advisory Commission of the County Board.

Protected Residential Area. Any "R" SUBURBAN RESIDENCE DISTRICT, residential lot in an "UV" UNINCORPORATED VILLAGE DISTRICT, and/or residential lot less than five acres in any district. Said lots platted or otherwise subdivided for residential use shall qualify as a protected residential area whether or not a dwelling has yet been constructed on it.

Public Water. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water which has the potential to support any type of recreational pursuit or water supply purpose. However, no lake, pond or flowage of less than twenty-five (25) acres in size and no river or stream having a total drainage area of less than two (2) square miles need be regulated by the county for the purposes of this Ordinance. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commission shall be exempt from the provisions of the statewide standards and criteria.

Railroad Yard. An open area for the storage and repair of trains.

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 (2) consecutive bridge crossings would most typically constitute a reach.

Recreational Use, Commercial Outdoor. Includes all uses that are privately owned and provide entertainment for the public primarily out-of-doors and which require large land areas or location in a rural setting such as golf courses, driving ranges, shooting ranges, hunting preserves, riding stables, etc. Such use does not include campgrounds or recreational vehicle camps.

Recreational Use, Commercial Indoor. Includes all uses that are privately owned and provide entertainment for the public indoors such as bowling alleys, indoor roller and ice skating rinks, indoor driving ranges and health clubs.

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

Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.

Restricted Residential Area. Any "R" SUBURBAN RESIDENCE DISTRICT; any residential lot in an "UV" UNINCORPORATED VILLAGE DISTRICT; and/or any residential lot less than five acres in any district when adjacent to any other residential lot less than five acres, any "R" SUBURBAN RESIDENCE DISTRICT or any residential lot in an "UV" UNINCORPORATED VILLAGE DISTRICT.

Road or Street. 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, court, way, trail or however, otherwise designated.

Rural-Oriented Commercial Use. An establishment which:

- (a) Is primarily engaged in serving agriculture, including but not limited to supplying soil preparation services; crop services; greenhouse and nursery sales; horticultural services; veterinary and other animal services, except kennels; farm management services; mechanical and equipment repair for agricultural equipment including machine welding, engine repair, general repair and installation services; commercial storage and blending of liquid and dry fertilizers; grain and feed storage and sales; custom tiling;

agricultural supplies and products sales or warehousing; and livestock sales barns and accessory facilities; and/or

- (b) Benefits from an isolated, rural location as determined by the Planning Commission.

Salvage Yard. An area where used, scrap, waste, discarded, reclaimable or salvaged materials, except garbage, are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to scrap iron, and other metals, unlicensed or inoperable vehicle(s), white goods, paper, rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with a construction or manufacturing process, the sale of used but licensed and operable vehicles, salvage materials and inoperable vehicles permitted in accordance with Section 15.14, and uses established entirely within enclosed buildings shall not be considered Salvage Yards.

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

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.

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 right-of-way, highway right-of-way, property line, or other facility.

Sewage Treatment System. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Article 15 and Article 24 of this Ordinance.

Sewer System. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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

Shoreland. Land located within the following distances from public waters: (1) One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; or (2) three hundred (300) feet from a river or stream or the landward extension of a floodplain designated by this Ordinance on such a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by

natural topographic divides which extends landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources, and the County Commissioners.

Sign. The use of any words, numerals, pictures, figures, devices, or trademarks by which anything is made known such as are used to show an individual, firm, profession or business and are visible to the general public.

- (a) Advertising Sign (off-premise sign). A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located.
- (b) Business Sign. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used as the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where such sign is located.
- (c) Construction Sign. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
- (d) Directional Sign. Sign erected on public or private property, which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
- (e) Directory Sign. A wall sign, which identifies the business, owner, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising.
- (f) Free Standing Sign. Any stationary or portable, self supported sign not affixed to any other structure.
- (g) Government Sign. A sign, which is erected by a governmental unit.
- (h) Illuminated Sign. Any sign, which is lighted by artificial light source, either directed upon it or illuminated from an interior source.
- (i) Institutional Sign. A sign or bulletin board which identifies a name or other characteristics of a public or private institution on the site where the sign is located.
- (j) Integral Sign. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like carved into stone,

concrete or similar material made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

- (k) Nameplate Sign. A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.
- (l) Real Estate Sign. A business sign placed upon a property advertising that particular property for sale, or for rent or lease.
- (m) Sign Area. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double face sign structure shall be used in computing the total surface area.

Significant Historic Site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08, as amended. 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.

Specified Anatomical Areas.

- (a) 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
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities.

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- (b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- (d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- (f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

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

Structure. Anything constructed or erected, including but not limited to buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Article 15 of this Ordinance, decks, advertising devices or other construction or erection with special function or form. Exceptions are fences or walks, and aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities. For the purposes of this Ordinance, mobile homes are otherwise herein defined and restricted.

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

Subdivision. Land that is divided for the purpose of sale, rent, or lease.

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

Tower. A structure, privately or publicly owned, used for commercial purposes, upon

which radio, television, cellular telecommunications, personal communication services, or other communication antennas and/or equipment of a similar nature is mounted, excluding towers, used for business band, citizen's band, amateur radio, personal television reception antennas, or other similar personal uses. This definition does not include wind energy conversion systems or meteorological towers associated with wind energy conversion systems.

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

- (a) Accessory Use. A use clearly incidental or subordinate to the principal use of a lot or a building located on the same lot as the principal use.
- (b) Commercial Use. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- (c) Conditional Use. A land use or development as is defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls.
- (d) Conditional Use Permit. A permit issued by the County Board in accordance with procedures specified in this Ordinance which would enable the Board to assign dimensions to a proposed use or conditions surrounding it.
- (e) Extractive Use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51, as amended.
- (f) Industrial Use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- (g) Non-Conforming Use. A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated.
- (h) Permitted Use. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
- (i) Principal Use or Structure. All uses or structures that are not accessory uses or structures.

Variance. A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property.

Variance – Area. A variance involving a permitted use of land that does not meet required setbacks, frontage requirements, height limitations, lot size restrictions, density regulations, off street parking and/or yard requirements.

Variance – Use. A variance permitting a use of land other than those prescribed by zoning regulations.

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

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

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Windbreak. Strips, rows or groups of ten or more trees and/or shrubs planted and maintained to alter windflow and microclimate, thereby protecting a specific area.

Yard. The space in the same lot with a building open and unobstructed, except as otherwise allowed herein, from the ground to the sky.

- (a) Front Yard. The area extending across the front of a lot between the main building or allowed building line and the front property line and between the side yard lines.
- (b) Rear Yard. The space between the main building and side lot lines, and the rear line of the lot, for the full width of the lot.
- (c) Side Yard. The space on a lot between the main building and the nearest sideline of the lot, extending from the front to the rear of the main building.

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

Zoning District. The section of the county for which the regulations governing the height, area, use of buildings, and premises are the same as delineated by this Ordinance.

ARTICLE 5. CLASSIFICATION OF DISTRICTS

SECTION 5.1 DISTRICTS.

For the purpose of this Ordinance, Lyon County is hereby divided into classes of districts, which shall be designated as follows:

- "FP" FLOODPLAIN DISTRICT
- "A" AGRICULTURAL DISTRICT
- "R" SUBURBAN RESIDENCE DISTRICT
- "UE" URBAN EXPANSION DISTRICT
- "C-I" HIGHWAY COMMERCIAL DISTRICT
- "RR" RURAL RESIDENTIAL DISTRICT
- "UV" UNINCORPORATED VILLAGE
- "PUD" PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 5.2 ZONING MAP.

The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map, and said map is hereby made a part of this Ordinance; said map shall be known as the "County Zoning Map". Said map consisting of all notations, references, and data shown thereon is hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain said map and amendments thereto shall be recorded on said zoning map within thirty (30) days after official publication of any amendment. The official zoning map shall be kept on file in the Zoning Administrator's office for Lyon County.

SECTION 5.3 DISTRICT BOUNDARIES.

The boundaries between districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys or railroad rights-of-way or such lines extended or lines parallel or perpendicular thereto, or section, half-section, quarter-section, quarter-quarter section or other fractional section lines of United States public land surveys, as established by law. Where figures are shown on the zoning map between a road and a district boundary line, they indicate that the district boundary line runs parallel to the road center at a distance there from equivalent to the number of feet so indicated, unless otherwise indicated. Appeals from the County Board, Planning Commission or any administrative officer's determination of the exact location of district boundary lines shall be heard by the Board of Adjustment in accordance with the provisions of Article 26 of this Ordinance.

SECTION 5.4 PERMITTED USES.

No structures, building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such structure, or tract of land shall be located, except conditional uses allowed in accordance with the provisions of Article 22 of this Ordinance.

SECTION 5.5 USES NOT PROVIDED FOR IN ZONING DISTRICT.

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

SECTION 5.6 FUTURE DETACHMENT.

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

ARTICLE 6. "FP" FLOODPLAIN DISTRICT

SECTION 6.1 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

- A. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 394, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.
- B. Findings of Fact.
 - 1. The flood hazard areas of Lyon County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - 2. Methods Used to Analyze Flood Hazards. The regulation of this Article is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- C. Statement of Purpose. It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 6.1B by provisions contained herein.

SECTION 6.2 GENERAL PROVISIONS.

- A. Lands to Which Ordinance Applies. This Article shall apply to all lands within the jurisdiction of Lyon County shown on the Official Zoning as being located within the boundaries of the "FP" FLOODPLAIN DISTRICT.
- B. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for Lyon County prepared by the Federal Insurance Administration dated December 2, 1977 and any updates, and the Flood Insurance Rate Map dated December 2, 1977 and any updates therein. The Official Zoning Map shall be on file in the Office of the Lyon County Zoning Administrator.

- C. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- D. Interpretation.
1. 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 Statutes.
 2. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.
- E. Abrogation and Greater Restrictions. It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other Articles inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
- F. Warning and Disclaimer of Liability. This Article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Lyon County any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made there under.
- G. Severability. If any clause, provision, or portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Article shall not be affected thereby.

SECTION 6.3 ESTABLISHMENT OF ZONING DISTRICTS.

A. Districts.

1. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 6.2B.
2. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe shall constitute those areas shown on the Flood Insurance Rate Map as adopted in Section 6.2B as being within Zone AE but being located outside of the floodway.
3. Floodplain District. The Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 6.2B.

B. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 6.4, 6.5, 6.6 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Article and specifically Section 6.9;
2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Article and Article 23; and
3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Article and specifically as stated in Section 6.10.

SECTION 6.4 FLOODWAY DISTRICT.

- A. Permitted Uses. The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the floodway to the extent that they are not prohibited by any other Article and provided they comply with the permitted standards. In addition, no use shall adversely affect that capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.
1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.
 3. Private and public recreational uses such as 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.
 4. Residential uses such as lawns, gardens, parking areas, and play areas.
- B. Standards for Floodway Permitted Uses.
1. The use shall have low flood damage potential.
 2. The use shall be permissible in the underlying zoning district if one exists.
 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 open space uses require accessory structures (temporary or permanent), or fill or storage of materials or equipment. These uses may be permitted in the floodway only after the issuance of a Conditional Use Permit as provided in Section 6.10. The uses are also subject to the provision in Section 6.4D, which applies to all floodway conditional uses.
1. Structures accessory to the uses listed in Section 6.4A and the uses listed in Section 6.4C.
 2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill.
7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 6.9C.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. All floodway Conditional Uses shall be subject to the procedures and standards contained in Article 22, Section 22.3.
3. The Conditional Use shall be permissible in the underlying zoning district if one exists.
4. Fill
 - (a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain 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 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 Subsection (b) immediately

above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Planning Commission has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. Conditional Use Permits are non-transferable, upon transfer of land ownership, a new conditional use permit will be required.

5. Accessory Structures.

- (a) Accessory structures shall not be designed 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.
 - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,
 - (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (c) Accessory structures, if permitted, 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 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
 - (1) 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
 - (2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

6. Storage of Materials and Equipment.

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (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 Planning Commission.
7. 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, as amended. County-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

SECTION 6.5 FLOOD FRINGE DISTRICT.

- A. Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 6.5B and the "Standards for all Flood Fringe Uses" listed in Section 6.5E.
- B. Standards for Flood Fringe Permitted Uses.
- 1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
 - 2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 6.4.D.5.(c).

3. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 6.5.B.1.
 4. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
 5. The provisions of Section 6.5E shall apply.
- C. Conditional Uses. Any structure that is not elevated on fill or flood proofed in accordance with Section 6.5.B.1.-6.5.B.2. or any use of land that does not comply with the standards in Section 6.5.B.3.-6.5.B.4. shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Section 6.5D-6.5E and Section 6.10.
- D. Standards for Flood Fringe 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 or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:
 - 1) the enclosed area is above-grade on at least one side of the structure;
 - 2) it is designed to internally flood and is constructed with flood resistant materials; and
 - 3) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
 - (a) 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 and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - (b) Specific Standards for Above-grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

- (1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
2. Basements, as defined by Article 4, Section 4.2 of this Ordinance, 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 6.5.D.3.
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 and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
4. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the County is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event.

The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Planning Commission. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

5. Storage of Materials and Equipment.

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (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 Planning Commission.

6. The provisions of Section 6.5E of this Article shall also apply.

E. Standards for All Flood Fringe Uses.

- 1. 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 greater than two feet or be subject to flood velocities greater than four feet per second 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 durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 6.5.E.2. above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
5. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
6. Standards for travel trailers and travel vehicles are contained in Section 6.9C.
7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

SECTION 6.6 "FP" FLOODPLAIN DISTRICT.

A. Permissible Uses.

1. The uses listed in Section 6.4A shall be permitted uses.
2. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.6B below. Section 6.4 shall apply if the proposed use is in the Floodway District and Section 6.5 shall apply if the proposed use is in the Flood Fringe District.

B. Procedures for Floodway and Flood Fringe Determinations Within the "FP" Floodplain District.

1. Upon receipt of an application for a Conditional Use Permit for a use within the "FP" Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
 - (a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules, parts 6120.5000 - 6120.6200, as amended, 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:
 - (a) Estimate the peak discharge of the regional flood.
 - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

- (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- 3. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Commission. The Planning Commission must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application.

The Planning Commission, 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 County Board for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Planning Commission shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Sections 6.4 and 6.5.

SECTION 6.7 SUBDIVISIONS.

- A. Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. Floodway/Flood Fringe Determinations in the "FP" Floodplain District. In the Floodplain District, applicants shall provide the information required in Section 6.6B of this Article to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

- C. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 6.8 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.

- A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
- B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Section 6.4 and 6.5. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. 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.

SECTION 6.9 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

- A. New manufactured home parks shall be subject to the provisions placed on subdivisions by Section 6.7.

- B. The placement of new or replacement manufactured homes on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 6.5. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 6.5.E.1., then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Planning Commission.
 - 1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- C. Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 6.9.C.1. below shall be subject to the provisions of this Article and as specifically spelled out in Section 6.9.C.3.-6.9.C.4. below.
 - 1. Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Article if they are placed in any of the areas listed in Section 6.9.C.2. below and further they meet the following criteria:
 - (a) Have current licenses required for highway use.
 - (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
 - (c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
 - 2. Areas Exempted For Placement of Travel/ Recreational Vehicles.
 - (a) Individual lots or parcels of record.

- (b) Existing commercial recreational vehicle parks or campgrounds.
 - (c) Existing condominium type associations.
- 3. Travel trailers and travel vehicles exempted in Section 6.9.C.1. lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/ flood proofing requirements and the use of land restrictions specified in Section 6.4 and 6.5.
- 4. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
 - (a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 6.5.E.1. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
 - (b) All new or replacement travel trailers or travel vehicles not meeting the criteria of Section 6.9.C.4.a. may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of Section 6.10.B.4. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 6.8C.

SECTION 6.10 ADMINISTRATION.

- A. Zoning Administrator: A Zoning Administrator or other official designated by the County shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Article 29 of this Ordinance.
- B. Permit Requirements.
1. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Article shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 2. Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
 3. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
 4. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

5. Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Article 29 of this Ordinance.
6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
7. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

SECTION 6.11 AMENDMENTS.

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

All amendments to this Article, 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 Article and said notice shall include a draft of the ordinance amendment or technical study under consideration.

ARTICLE 7. RESERVED

ARTICLE 8. "A" AGRICULTURAL DISTRICT

SECTION 8.1 PURPOSE.

The "A" AGRICULTURAL DISTRICT is intended to provide a district which will allow extensive areas of the county to be retained in agricultural use; prevent scattered non-farm development; secure economy in governmental expenditures for public services utilities, and schools; and preserve woodlands and wetlands which because of their physical features, are desirable as water retention areas, habitat for plant and animal life, or other environmental use beneficial to the county. The base density in this area shall be maintained at one unit per eighty acres. Also, see density transfer Section 15.11.

SECTION 8.2 PERMITTED USES.

The following uses shall be permitted within the "A" AGRICULTURAL DISTRICT.

- A. Agricultural uses, including animal feedlots in accordance with Article 19 of this Ordinance.
- B. Aquaculture.
- C. Cemeteries, crematories or memorial gardens.
- D. Essential services, minor.
- E. Flood control or watershed structures.
- F. Parks, recreational areas, hiking or riding trails, wildlife areas, game refuges or forest preserves owned and/or operated by a governmental agency.
- G. Single-family dwellings subject to Sections 15.11 and 15.12 of this Ordinance.
- H. Township halls.
- I. Designated historical sites and areas.
- J. Home occupations subject to Section 15.9 of this Ordinance.
- K. Renewable Energy facilities subject to Article 21 of this Ordinance.
- L. The disposal of petroleum contaminated soils for treatment by microbioorganisms per rules and regulations of the Minnesota Pollution Control

Agency, or its successors, and further subject to the limitations and controls contained in Article 15 of this Ordinance.

- M. Permit by rule demolition site per rules and regulations of the Minnesota Pollution Control Agency, or its successors.
- N. Towers in accordance with Article 20 of this Ordinance.
- O. The temporary stopping of trains for loading and unloading, subject to all Federal and State Regulations.

SECTION 8.3 CONDITIONAL USES.

The following uses may be allowed in the "A" AGRICULTURAL DISTRICT subject to obtaining a Conditional Use Permit in accordance with provision of Article 22 of this Ordinance.

- A. Animal feedlots requiring a conditional use permit by, and in accordance with, Article 19 of this Ordinance.
- B. Recreational uses, commercial outdoor.
- C. Churches.
- D. Kennels.
- E. Essential services, major, subject to Article 18 of this Ordinance.
- F. Extraction of minerals as regulated in Section 15.4 of this Ordinance.
- G. Governmental administration or service buildings.
- H. Single-family dwellings requiring a conditional use permit by, and in accordance with, Section 15.11 of this Ordinance.
- I. Railroad rights-of-way, including railroad yards.
- J. Airports, landing strips and airport facilities.
- K. Sewage treatment plants and sewage lagoons.
- L. Concrete and bituminous recycling operations.
- M. Extended home occupations requiring a conditional use permit by, and in accordance with Section 15.9 of this Ordinance, except extended home

occupations shall not be allowed within any Restricted Residential Area as defined herein.

- N. Salvage yards.
- O. Rural-oriented commercial uses.
- P. Mechanical repair for non-agricultural equipment including machine welding, engine repair, automobile or other vehicle or equipment repair or service, general repair, and installation services.
- Q. Renewable Energy facilities requiring a conditional use permit by, and in accordance with, Article 21 of this Ordinance.
- R. Towers requiring a conditional use permit by, and in accordance with, Article 20 of this Ordinance.

SECTION 8.4 ACCESSORY USES.

The following uses shall be permitted accessory uses within the "A" AGRICULTURAL DISTRICT.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 8.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot in an "A" AGRICULTURAL DISTRICT on which any permitted or conditionally permitted use is erected shall meet the following minimum standard.

- A. Lot Size, Width and Depth.
 - 1. Every lot shall contain an area of not less than five (5) acres, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance. Smaller lot sizes may be achieved through clustering of dwellings with a conditional use permit in accordance with Section 15.11.
 - 2. The lot size shall be adequate to meet the setback, yard, and other applicable requirements of this Ordinance.
 - 3. Every lot shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.

- B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:
1. Front Yard.
 - (a) Setbacks for construction on new building sites shall be a minimum of one hundred thirty (130) feet from the road right-of-way. Setbacks for construction on building sites existing prior to March 16, 2007 shall remain at a minimum of one hundred (100) feet from the road right-of-way.
 - (b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
 2. Side Yard.
 - (a) Every building shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.
 - (b) Each side yard shall have a width of not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.
 3. Rear Yard. Every building shall have a rear yard having a depth of not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.
- C. Lot Coverage. Not more than twenty-five (25) percent of a lot shall be covered by impervious surfaces.
- D. Judicial and County Ditches. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch. Said setback requirement shall apply to erection of and maintenance of all structures, buildings, trees and the like.
- E. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 8.6 OTHER REGULATIONS.

Additional requirements and regulations for uses in the "A" AGRICULTURAL DISTRICT are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES,

Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS, and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 9. "R" SUBURBAN RESIDENCE DISTRICT

SECTION 9.1 PURPOSE.

The "R" SUBURBAN RESIDENCE DISTRICT is intended to provide a district for existing rural residential subdivisions allowing low-density residential development and on-lot utilities where municipal or community utility systems are not available. New "R" SUBURBAN RESIDENCE DISTRICTS shall not be created.

SECTION 9.2 PERMITTED USES.

The following uses shall be permitted within the "R" SUBURBAN RESIDENCE DISTRICT.

- A. Churches provided that such church shall not locate within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- B. Convalescent or nursing homes provided that such convalescent or nursing home shall not locate within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- C. Home occupations, subject to Section 15.9 of this Ordinance.
- D. Parks, recreational areas, hiking or riding trails, wildlife areas, game refuges, or forest preserves owned by a governmental agency.
- E. Single-family dwellings.
- F. Essential services, minor.

SECTION 9.3 CONDITIONAL USES.

The following uses may be allowed in the "R" SUBURBAN RESIDENCE DISTRICT subject to obtaining a Conditional Use Permit in accordance with the provisions of Article 22 of this Ordinance.

- A. Cemeteries, crematories or memorial gardens.
- B. Essential services, major.

- C. Recreational uses, commercial outdoor, limited to golf courses and driving ranges, provided that no principle structure shall be located within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- D. Governmental administrative or service buildings, provided that no principle structure shall be located within one hundred (100) feet of any lot of a protected residential area, as defined herein.

SECTION 9.4 ACCESSORY USES.

The following uses shall be permitted accessory uses within the "R" SUBURBAN RESIDENCE DISTRICT.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 9.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot in an "R" SUBURBAN RESIDENCE DISTRICT on which any permitted or conditionally permitted use is erected shall meet the following minimum standards.

- A. Lot Size, Width and Depth
 - 1. Every lot shall contain an area of not less than one (1) acre, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance.
 - 2. Every lot shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.
- B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:
 - 1. Front Yard.
 - (a) Setbacks for construction on new building sites shall be a minimum of thirty (30) feet from the road right-of-way. Setbacks for construction on building sites existing prior to March 16, 2007 shall remain at a minimum of one hundred (100) feet from the road right-of-way.

- (b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
- 2. Side Yard.
 - (a) Every building shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.
 - (b) Each side yard shall have a width of not less than fifteen (15) feet.
- 3. Rear Yard. There shall be a minimum rear yard of twenty five (25) feet.
- C. Height Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following height requirements:

All structures shall not exceed thirty-five (35) feet in height.
- D. Judicial and County Ditches and Tiles.
 - 1. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch.
 - 2. There shall be a minimum setback of fifty (50) feet from the center of any county or judicial drainage tile.
 - 3. Said setback requirements shall apply to erection of or maintenance of all structures, buildings, trees and the like.
- E. Lot Coverage. Not more than twenty-five (25) percent of a lot shall be covered by impervious surfaces.
- F. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 9.6 OTHER REGULATIONS.

Additional requirements and regulations for uses in the "R" SUBURBAN RESIDENCE are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 10. "UE" URBAN EXPANSION DISTRICT

SECTION 10.1 PURPOSE.

The "UE" URBAN EXPANSION DISTRICT applies to lands designated as Planned Growth Areas in the County's Comprehensive Plan. These are areas where agriculture and open space are current and proper uses, but which in the future will be required for expansion of urban uses as urban services and facilities become available.

Land within the URBAN EXPANSION DISTRICT is intended to be preserved in agricultural, low-density residential or open space use in large parcels until the extension of urban facilities and services are committed. Thus, the base residential density in these areas shall be maintained at one unit per forty acres. In areas designated for future residential development in the adjacent city's land use plan. Higher residential densities may be accommodated through rezoning to "PUD" PLANNED UNIT DEVELOPMENT that encourages clustering on smaller lots with open space that can be further subdivided in the future, and community septic systems which can be hooked up to city sewer when available.

This implements the County's growth management goals and objectives by protecting these areas against interim subdivision that will hinder future urban development and the provision of adequate streets, water, sanitary sewer and other urban services in a cost-effective and efficient manner.

SECTION 10.2 PERMITTED USES.

The following uses shall be permitted within the "UE" URBAN EXPANSION DISTRICT.

- A. Agricultural uses, except that any animal feedlot or any expansion to an existing animal feedlot shall not be allowed, except as provided in Section 19.4 for existing feedlots.
- B. Aquaculture.
- C. Cemeteries, crematories or memorial gardens.
- D. Essential services, minor.
- E. Home occupations subject to Section 15.9 of this Ordinance.
- F. Township halls.
- G. Any park, recreational facilities, hiking or riding trails, wildlife areas, game refuges or forest preserves owned by a governmental agency.

- H. Single-family dwellings subject to Section 15.11 of this Ordinance.
- I. Renewable energy facilities subject to Article 21 of this Ordinance.
- J. Towers in accordance with Article 20 of this Ordinance.

SECTION 10.3 CONDITIONAL USES.

The following uses may be allowed in the "UE" URBAN EXPANSION DISTRICT subject to obtaining a Conditional Use Permit in accordance with the provision of Article 22 of this Ordinance.

- A. Churches.
- B. Essential services, major, subject to Article 18 of this Ordinance.
- C. Any extraction, processing or storage of sand, gravel, stone or other raw materials as regulated in Section 15.4 of this Ordinance.
- D. Recreational uses, commercial outdoor.
- E. Governmental administrative or service buildings, provided that no principle structure shall be located within one hundred (100) feet of any lot line of an abutting lot in a "UE" URBAN EXPANSION DISTRICT.
- F. Extended home occupations requiring a conditional use permit by, and in accordance with Section 15.9 of this Ordinance, except extended home occupations shall not be allowed within any Restricted Residential Area as defined herein.
- G. Renewable energy facilities requiring a conditional use permit by, and in accordance with, Article 21 of this Ordinance.
- H. Heavy or basic manufacturing, such as but not limited to establishments producing farming products, food products, cement products, heavy machinery and heavy equipment, chemicals, agricultural products such as feed, seed, fertilizers, in areas planned for future industrial use in the adopted land use plan of the adjacent city.
- I. Towers requiring a conditional use permit by, and in accordance with, Article 20 of this Ordinance.

SECTION 10.4 ACCESSORY USES.

The following uses shall be permitted accessory uses within the "UE" URBAN EXPANSION DISTRICT.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 10.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot on a "UE" URBAN EXPANSION DISTRICT on which any permitted or conditionally permitted use is erected shall meet the following minimum standards.

A. Lot Size, Width and Depth

1. Every lot shall contain an area of not less than five (5) acres, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance. Smaller lot sizes may be achieved through clustering of dwellings with community sewer systems with a conditional use permit in accordance with Section 15.11.
2. Every lot shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.

B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:

1. Front Yard.
 - (a) Setbacks for construction on new building sites shall be a minimum of one hundred thirty (130) feet from the road right-of-way. Setbacks for construction on building sites existing prior to March 16, 2007 shall remain at a minimum of one hundred (100) feet from the road right-of-way.
 - (b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
2. Side Yard.
 - (a) Every building shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.

(b) Each side yard shall have a width of not less than fifteen (15) feet.

3. Rear Yard. There shall be a minimum rear yard of twenty five (25) feet.

C. Height Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following height requirements:

All structures shall not exceed thirty-five (35) feet in height.

D. Judicial and County Ditches and Tiles.

1. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch.

2. There shall be a minimum setback of fifty (50) feet from the center of any county or judicial drainage tile.

3. Said setback requirements shall apply to erection of or maintenance of all structures, buildings, trees and the like.

E. Lot Coverage. Not more than twenty-five (25) percent of a lot shall be covered by impervious surfaces.

F. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 10.6 CONSISTENCY WITH CITY LAND USE PLANNING.

A. Development within the "UE" URBAN EXPANSION DISTRICT shall be consistent with the adopted land use plan of the adjacent City, if one is adopted.

B. The Zoning Administrator shall notify and send application copies of all zoning, variance, plat, ordinance amendment or conditional use requests within UE Districts to the adjacent City at least ten (10) days prior to the respective meeting or hearing at which the request is to be considered. In addition, a copy of the approved zoning request, amendments, plats, variances and conditional uses shall be sent to the City within ten (10) days of the final decision.

C. An applicant for any residential, commercial or industrial development within the UE Urban Expansion District shall first meet with the affected municipality to determine if annexation of the subject property is feasible. If annexation is not feasible, the subdivision or plat application shall proceed under the County regulations.

SECTION 10.7 OTHER REGULATIONS.

Additional requirements and regulations for uses in the “UE” URBAN EXPANSION DISTRICT are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 11. "C-I" HIGHWAY COMMERCIAL DISTRICT

SECTION 11.1 PURPOSE.

The "C-I" HIGHWAY COMMERCIAL DISTRICT is intended to provide a district which will allow highway oriented businesses and light industrial uses, closely related to existing urban areas. The trade area population served by these establishments requires easy access; therefore, it is desirable to group the uses at locations along major traffic routes providing for appropriate and adequate access ways. These uses should be designed to standards that will not impair the traffic carrying capabilities of abutting roads and highways. Uses within this district shall be of a type that produces relatively low volumes of wastewater that is serviced by municipal water or an onsite well and which has an adequate on-site disposal system.

SECTION 11.2 PERMITTED USES.

The following uses shall be permitted within the "C-I" HIGHWAY COMMERCIAL DISTRICT.

- A. Agricultural equipment sales and service.
- B. Auto repair garages.
- C. Auto or truck washes.
- D. Auto sales establishments or lots.
- E. Auto or truck service stations.
- F. Auto or truck fuel stations, including attached convenience, retail and/or food sales establishments.
- G. Recreational uses, commercial indoor, except dance halls.
- H. Boat sales or repair establishments.
- I. Building supply sales.
- J. Any light manufacturing producing: wood products, electric and electronic components, clothing, hardware, metal stamping, printing, tools, optical instruments, controls and devices; any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards set forth hereinafter, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the

emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.

- K. Any wholesale and warehousing operations whose operations are principally confined to the interior of a building, such as: food products, automotive parts, drugs, electrical equipment, hardware, paper and containers, feeds and seeds.
- L. Renewable energy facilities subject to Article 21 of this Ordinance.
- M. Mini-storage facilities.
- N. Adult uses, subject to Section 15.15 of this Ordinance.
- O. Retail and service business establishments related to the operation of any other permitted or conditional use in the "C-I" HIGHWAY COMMERCIAL DISTRICT.
- P. Towers in accordance with Article 20 of this Ordinance.

SECTION 11.3 CONDITIONAL USES.

The following uses may be allowed in the "C-I" HIGHWAY COMMERCIAL DISTRICT subject to obtaining a Conditional Use Permit in accordance with the provisions of Article 22 of this Ordinance.

- A. Dance halls.
- B. Eating or drinking establishments.
- C. Essential services, major, subject to Article 18 of this Ordinance.
- D. Motels or recreational vehicle campgrounds.
- E. Shopping centers.
- F. Transportation terminals and distribution facilities including air, rail and truck terminals, public garages and equipment yards.
- G. Any heavy or basic manufacturing producing: farming products, food products, cement products, heavy machinery and heavy equipment, chemicals, agricultural products such as feed, seed, fertilizers.
- H. Renewable energy facilities requiring a conditional use permit by, and in accordance with, Article 21 of this Ordinance.

- I. Towers requiring a conditional use permit by, and in accordance with, Article 20 of this Ordinance.
- J. Commercial construction companies or road construction companies.

SECTION 11.4 ACCESSORY USES.

The following uses shall be permitted accessory uses within the "C-I" HIGHWAY COMMERCIAL DISTRICT.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 11.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot in a "C-I" HIGHWAY COMMERCIAL DISTRICT on which any permitted or conditionally permitted use is erected shall meet the following minimum standards.

- A. Lot size and width.
 - 1. No minimum lot size is required; however, the lot size shall be adequate to meet the setback, yard and other requirements of this Ordinance.
 - 2. Every lot shall have a width of not less than one hundred (100) feet abutting a public right-of-way.
- B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:
 - 1. Front Yard.
 - (a) Setbacks for construction on new building sites shall be a minimum of one hundred thirty (130) feet from the road right-of-way. Setbacks for construction on building sites existing prior to March 16, 2007 shall remain at a minimum of one hundred (100) feet from the road right-of-way.
 - (b) Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
 - 2. Side Yard.

- (a) Every building shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.
 - (b) Each side yard shall have a width of not less than fifteen (15) feet, except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any non-“C-I” District.
- 3. Rear Yard. There shall be a minimum rear yard of fifty (50) feet.
- C. Height Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following height requirements:

All structures shall not exceed forty-five (45) feet in height.
- D. Judicial and County Ditches and Tiles.
 - 1. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch.
 - 2. There shall be a minimum setback of fifty (50) feet from the center of any county or judicial drainage tile.
 - 3. Said setback requirements shall apply to erection of or maintenance of all structures, buildings, trees and the like.
- E. Lot Coverage. Not more than fifty (50) percent of the lot area shall be occupied by buildings, with no more than 75% being covered by impervious surfaces.
- F. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 11.6 CONSISTENCY WITH CITY PLANS IN “UE” URBAN EXPANSION DISTRICTS.

Rezoning to a “C-1” HIGHWAY COMMERCIAL DISTRICT within any “UE” URBAN EXPANSION AREA shall be consistent with the adopted land use plan of the adjacent City, if one is adopted. The Zoning Administrator shall notify and send application copies of all zoning, variance, plat, ordinance amendments or conditional use requests within UE Districts to the adjacent City at least ten (10) days prior to the respective meeting or hearing at which the request is to be considered. In addition, a copy of the approved zoning request, amendments, plats, variances and conditional uses shall be sent to the City within ten (10) days of the final decision.

SECTION 11.7 OTHER REGULATIONS.

Additional requirements and regulations for uses in the “C-1” HIGHWAY COMMERCIAL DISTRICT are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 20 TOWERS and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 12. "RR" RURAL RESIDENTIAL DISTRICT

SECTION 12.1 PURPOSE.

The "RR" RURAL RESIDENTIAL DISTRICT is intended to provide a district to accommodate agricultural uses as well as rural, non-farm residential development in locations where city services are not expected to be extended in the foreseeable future, but where there exists development pressure due to the presence of high resource amenities, the rural setting and proximity to jobs and commerce. The base density in these areas shall be maintained at one unit per forty acres, but higher densities may be accommodated through rezoning to "PUD" PLANNED UNIT DEVELOPMENT that encourages clustering to preserve open space, natural features or farmland.

SECTION 12.2 PERMITTED USES.

The following uses shall be permitted within the "RR" RURAL RESIDENTIAL DISTRICT.

- A. Agricultural uses, except that any animal feedlot or any expansion to an existing animal feedlot shall not be allowed, except as provided in Section 19.4 for existing feedlots.
- B. Essential services, minor.
- C. Flood control or watershed structures.
- D. Home occupations subject to Section 15.9 of this Ordinance.
- E. Parks, recreational areas, hiking or riding trails, wildlife areas, game refuges or forest preserves owned by a governmental agency.
- F. Single-family dwellings subject to Section 15.11 of this Ordinance.
- G. Renewable energy facilities subject to Article 21 of this Ordinance.
- H. Towers in accordance with Article 20 of this Ordinance.

SECTION 12.3 CONDITIONAL USES.

The following uses may be allowed in the "RR" RURAL RESIDENTIAL DISTRICT subject to obtaining a Conditional Use Permit in accordance with the provision of Article 22 of this Ordinance.

- A. Aquaculture.
- B. Cemeteries, crematories or memorial gardens.
- C. Churches.
- D. Recreational uses, commercial outdoor.
- E. Essential services, major, subject to Article 18 of this Ordinance.
- F. Extraction of minerals as regulated in Section 15.4 of this Ordinance.
- G. Extended home occupations requiring a conditional use permit by, and in accordance with Section 15.9 of this Ordinance, except extended home occupations shall not be allowed within any Restricted Residential Area as defined herein.
- H. Single-family dwellings requiring a conditional use permit by, and in accordance with, Section 15.11 of this Ordinance.
- I. Railroad rights-of-way, except that railroad yards shall not be allowed.
- J. Renewable energy facilities requiring a conditional use permit by, and in accordance with, Article 21 of this Ordinance.
- K. Towers requiring a conditional use permit by, and in accordance with, Article 20 of this Ordinance.

SECTION 12.4 ACCESSORY USES.

The following uses shall be permitted accessory uses within the "RR" RURAL RESIDENTIAL DISTRICT.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 12.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot in a "RR" RURAL RESIDENTIAL DISTRICT on which any permitted or conditionally permitted use is erected shall meet the following minimum standards.

- A. Lot Size, Width and Depth.

1. Every lot shall contain an area of not less than five (5) acres, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance. Smaller lot sizes may be achieved through clustering of dwellings with a conditional use permit in accordance with Section 15.11.
 2. The lot size shall be adequate to meet the setback, yard and other applicable requirements of this Ordinance.
 3. Every lot shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.
- B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:
1. Front Yard.
 - (a) Setbacks for construction on new building sites shall be a minimum of one hundred thirty (130) feet from the road right-of-way. Setbacks for construction on building sites existing prior to March 16, 2007 shall remain at a minimum of one hundred (100) feet from the road right-of-way.
 - (b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.
 2. Side Yard.
 - (a) Every building shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.
 - (b) Each side yard shall have a width of not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.
 3. Rear Yard. Every building shall have a rear yard having a depth of not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.
- C. Height Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following height requirements:

All structures shall not exceed thirty-five (35) feet in height, except taller structures shall be allowed provided they are setback a distance from all property lines no less than the height of the structure.

D. Judicial and County Ditches and Tiles.

1. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch.
2. There shall be a minimum setback of fifty (50) feet from the center of any county or judicial drainage tile.
3. Said setback requirements shall apply to erection of or maintenance of all structures, buildings, trees and the like.

E. Lot Coverage. Not more than twenty-five (25) percent of a lot shall be covered by impervious surfaces.

F. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 12.6 GENERAL OTHER REGULATIONS.

Additional requirements and regulations for uses in the “RR” RURAL RESIDENTIAL DISTRICT are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 13. “UV” UNINCORPORATED VILLAGE DISTRICT

SECTION 13.1 PURPOSE.

The “UV” UNINCORPORATED VILLAGE District is intended to accommodate limited commercial, industrial and residential development within the established, unincorporated town sites/centers of Green Valley, Amiret, Burchard and Dudley. These areas should remain relatively small and low-density so that they do not require public sewer service or County Road improvements beyond normal maintenance. Commercial uses in these areas should be of the types that produce only a relatively low volume of wastewater that is serviced by an on-site well and waste water disposal system.

SECTION 13.2 PERMITTED USES.

The following uses shall be permitted within the “UV” UNINCORPORATED VILLAGE DISTRICT.

- A. Churches provided that such church shall not locate within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- B. Convalescent or nursing homes provided that such convalescent or nursing home shall not locate within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- C. Home Occupations subject to Section 15.9 of this Ordinance.
- D. Parks, recreational areas, hiking or riding trails, wildlife areas, game refuges, or forest preserves owned by a governmental agency.
- E. Single-family dwellings.
- F. Essential services, minor.
- G. Towers in accordance with Article 20 of this Ordinance.

SECTION 13.3 CONDITIONAL USES.

The following uses may be allowed in the “UV” UNINCORPORATED VILLAGE DISTRICT subject to obtaining a Conditional Use Permit in accordance with the provisions of Article 22 of this Ordinance.

- A. Cemeteries, crematories or memorial gardens.
- B. Essential services, major.
- C. Recreational uses, commercial outdoor, limited to golf courses and driving ranges, provided that no principle structure shall be located within one hundred (100) feet of any lot line of a protected residential area, as defined herein.
- D. Governmental administrative or service buildings, provided that no principle structure shall be located within one hundred (100) feet of any lot of a protected residential area, as defined herein.
- E. Extended home occupations, requiring a conditional use permit by, and in accordance with, Section 15.9 of this Ordinance, except extended home occupations shall not be allowed within any Restricted Residential Area as defined herein.
- F. Agricultural equipment sales and service.
- G. Auto repair garages.
- H. Auto or truck washes.
- I. Auto sales establishments or lots.
- J. Auto or truck service stations.
- K. Auto or truck fuel stations, including attached convenience, retail and/or food sales establishments.
- L. Recreational uses, commercial indoor, except dance halls.
- M. Boat sales or repair establishments.
- N. Building supply sales.
- O. Any light manufacturing producing: wood products, electric and electronic components, clothing, hardware, metal stamping, printing, tools, optical instruments, controls and devices; any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conform to the performance standards set forth hereinafter, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the

emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.

- P. Any wholesale and warehousing operations whose operations are principally confined to the interior of a building, such as: food products, automotive parts, drugs, electrical equipment, hardware, paper and containers, feeds and seeds.
- Q. Renewable energy facilities subject to Article 21 of this Ordinance.
- R. Mini-storage facilities.
- S. Retail and service business establishments related to the operation of any other permitted or conditional use in the “UV” UNINCORPORATED VILLAGE DISTRICT.
- T. Towers requiring a conditional use permit by, and in accordance with, Article 20 of this Ordinance.

SECTION 13.4 ACCESSORY USES.

Any accessory structure or use in association with any permitted or conditional use, provided such accessory structure or use shall be located on the same property.

SECTION 13.5 LOT SIZE, SETBACK, YARD AND HEIGHT REQUIREMENTS.

Every lot in an “UV” UNINCORPORATED VILLAGE DISTRICT on which any permitted or conditionally permitted use is established shall meet the following minimum standards.

- A. Lot Size, Width and Depth.
 - 1. Every lot on which a dwelling unit is erected shall contain an area of not less than one (1) acre of buildable area, except that the minimum lot area shall not apply to the sale of lots of record at the time of enactment of this Ordinance.
 - 2. For uses other than dwelling units the lot size shall be adequate to meet the setback, yard, and other applicable requirements of this Ordinance.
 - 3. Every lot on which dwelling unit is erected shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.

B. Yard Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following yard requirements:

1. Front Yard.

- (a) There shall be a front yard setback of not less than twenty five (25) feet from the right-of-way line of any public right-of-way.
- (b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

2. Side Yard.

- (a) Every structure shall have two (2) side yards, except when located on a lot at the intersection of two (2) or more roads or highways.
- (b) Each side yard:
 - (1) For residential lots shall have a width of not less than fifteen (15) feet.
 - (2) For all other lots shall be not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.

3. Rear Yard. Each lot shall have a rear yard having a depth not less than twenty five (25) feet, except any structure over twenty five (25) feet in height shall be setback the height of the structure.

C. Height Requirements. Every permitted, conditionally permitted or accessory structure shall meet the following height requirements:

All structures shall not exceed thirty-five (35) feet in height, except taller structures shall be allowed on non-residential lots provided they are setback a distance from all property lines no less than the height of the structure.

D. Judicial and County Ditches and Tiles.

- 1. There shall be a minimum setback of one hundred twenty (120) feet from the center of any county or judicial drainage ditch.

2. There shall be a minimum setback of fifty (50) feet from the center of any county or judicial drainage tile.
3. Said setback requirements shall apply to erection of or maintenance of all structures, buildings, trees and the like.

E. Lot Coverage.

1. Uses listed as either permitted or conditional in the "UV" UNINCORPORATED VILLAGE DISTRICT Not more than twenty-five (25) percent of a lot shall be covered by impervious surfaces.
2. All other uses: Not more than fifty (50) percent of the lot area shall be occupied by structures with no more than 75% being covered by impervious surfaces.

F. Exceptions. Uses exempted from meeting the lot size, yard and height requirements are listed in Article 15, Section 15.10 of the General Regulations.

SECTION 13.6 GENERAL REGULATIONS.

Additional requirements and regulations for uses in the "UV" UNINCORPORATED VILLAGE DISTRICT are set forth this Ordinance, including, but not limited to Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS, and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

ARTICLE 14. “PUD” PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 14.1 PURPOSE AND AUTHORIZATION.

- A. The purpose of the PUD District is to promote flexibility, economy and creativity of site design and architecture to preserve open space, scenic views and/or rural character while creating more compact neighborhoods that have strong visual and physical access to open space, distinct identity and a sense of community. This method of development uses the size and shape of the open space as the central organizing element and may provide common open space areas for active and/or passive recreational use by residents and/or the larger community or for future development.
- B. A PUD may be allowed only through a request for rezoning in all areas of the County except those designated Agricultural Preservation on Lyon County’s official Comprehensive Land Use Plan. For PUD developments in Shoreland districts, refer also to Article 17 Shoreland Standards.
- C. Planned unit development authorization may allow:
1. Variety: Within a comprehensive site design concept, a mixture of land uses, housing types, lot sizes and densities.
 2. Sensitivity: By departing from the strict application of required setbacks, yard areas, lot sizes, minimum requirements and other performance standards associated with traditional zoning, planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural and cultural characteristics.
 3. Efficiency: The consolidation of areas for recreation, open space and/or agricultural use and reductions in street lengths and other utility related expenses.
 4. Density Clustering/Open Space: The project density may be clustered on areas that have low agricultural potential and/or natural housing appeal while retaining the remainder of the site as open space. Density is based on the number of units per acre instead of specific lot dimensions.
 5. District Integration: The combination of uses that are allowed in separate zoning districts such as:

- (a) Mixed residential allows both densities and unit types to be varied within the project.
- (b) Mixed use allows commercial, industrial, residential, or institutional land use with the integration of compatible land uses within the project.

SECTION 14.2 ALLOWED USES AND DENSITY.

- A. Uses within the PUD may include only those uses generally associated with the underlying land use category shown for the area on the official Comprehensive Land Use Plan, unless it is determined that there is a public benefit to include other uses. The burden of proof shall rest upon the applicant to demonstrate the public benefit of such uses.
- B. Within areas identified as Planned Growth Areas on Lyon County’s official Comprehensive Land Use Plan, uses within the PUD may include those uses generally associated with the underlying land use category shown on the official Comprehensive Land Use Plan of the adjacent city, unless it is determined that there is a public benefit to include other uses. The burden of proof shall rest upon the applicant to demonstrate the public benefit of such uses.
- C. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance approving the PUD district, in a PUD Agreement, and in approved Preliminary and Final Plats and their supporting documents.
- D. Maximum residential densities shall be as shown in Table 1.

Table 1			
	Original District (Existing Zoning District Prior to Request for Rezoning to PUD):		
	RR	UE	UV
Maximum residential density under conventional zoning in units per acre	1 unit per 40 acres	1 unit per 40 acres	N/A
Maximum residential density in units per acre through PUD	16 units per 40 acres	16 units per 40 acres	N/A

SECTION 14.3 REQUIRED STANDARDS.

- A. Where not specifically listed within this Ordinance, or otherwise established through an ordinance approving the PUD district, in a PUD Agreement, or in approved Preliminary and Final Plats and their supporting documents, all PUD developments shall follow the standards set forth for the zoning district(s) most similar to the development being proposed (herein after referred to as the “underlying district”). The burden of proof shall rest upon the applicant to demonstrate the benefit of any deviations from the underlying district.
- B. The County shall consider a proposed PUD zoning and any deviations from the underlying district from the point of view of all standards and purposes of this Article and the Lyon County Comprehensive Land Use Plan.
- C. The PUD shall include the proposed development and all the land from which the density for the development is derived.
- D. Common open space within a PUD shall be:
 - 1. For the use and benefit of the homeowners, general public or kept in a permanent natural state. Such open space shall be owned and managed in common by a homeowners association, appropriate public entity or conservation organization. This land will be a permanent part of the development; OR
 - 2. Farmland or open space that may be developed at some future date. Such open space shall be retained as an outlot with a deed restriction preventing further development or subdivision until authorized by the County. In the Urban Expansion Areas, this is the preferred type of open space, which the County may require at its option. The open space may be owned and managed in common by a homeowners association or appropriate public entity; or it may be owned separately.

SECTION 14.4 COORDINATION WITH SUBDIVISION REGULATIONS.

- A. All PUD’s shall be platted.
- B. Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The items required under this Article shall be submitted in a form, which will satisfy the requirements of the Subdivision Ordinance.

SECTION 14.5 REVISIONS AND/OR CHANGES.

- A. Minor changes in the location, placement and height of structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the Final Plat was approved and filed with the Zoning Administrator.
- B. Changes in uses, significant changes in the location, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved Final Plat and its supporting documents may be made only after a public hearing conducted by the County Board. Any changes shall be recorded as amendments to the recorded copy of the Final Plat and its supporting documents.
- C. All of the provisions of this Ordinance applicable to the zoning district(s) most similar to the development being proposed under the PUD shall apply to the PUD District except as otherwise provided in this Article, an ordinance approving the PUD district, a PUD Agreement, or in approved Preliminary and Final Plats and their supporting documents.
- D. Review: If substantial development has not occurred within a reasonable time after approval of the PUD zoning district, the County Board may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the County Board to find that the rezoning was in error.

SECTION 14.6 PHASING AND GUARANTEE OF PERFORMANCE.

- A. The Planning Commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.
- B. Upon recommendation of the Planning Commission and for good cause shown by the property owner, the County Board may extend the limits of the development schedule.
- C. The construction and provision of all of the common open space and public and recreational facilities which are shown on the Final Plat and its supporting documents must proceed at the same rate as the construction of dwelling units, if any. The Planning Commission shall review all of the land use permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the County Board for action.

- D. A two-year maintenance bond shall be required to guarantee performance by the developer. In addition, the developer shall provide either an escrow deposit or letter of credit. The developer may choose between the letter of credit or escrow deposit. The amount of the bond, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the PUD Agreement.

SECTION 14.7 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION.

- A. After the land use permit has been approved for any construction, the use of the land and the construction, modification or alteration of any buildings or structures within the planned unit development shall be governed by the Final Plat and supporting documents.
- B. After the land use permit has been issued for any construction, no changes shall be made in the approved Final Plat and supporting documents except upon application as provided below:
 - 1. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the Final Plat and supporting documents. No change authorized by this Section may increase the cubic volume of any building or structure by more than ten percent (10%).
 - 2. Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the Final Plat and supporting documents unless an amendment to the Final Plat or supporting documents is approved under Section 14.5.
 - 3. Changes in the use of the common open space may be authorized by an amendment to the Final Plat and supporting documents under Section 14.5.
 - 4. Any other changes in the Final Plat and supporting documents must be authorized by an amendment of the Final Plat or supporting documents under Section 14.5.

SECTION 14.8 PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT.

There are four stages in the PUD process: Pre-Application Conference, Sketch Plan Stage, Preliminary Plat Stage, and Final Plat Stage.

A. Pre-Application Conference.

1. Purpose. The primary purpose of the Pre-Application Conference is to provide the applicant of a proposed PUD an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity with the County's applicable plans, policies and Ordinances before incurring substantial expense in the preparation of plans, surveys and other data.
2. Procedure. Prior to filing of an application for a PUD, the applicant of the proposed PUD shall arrange a Pre-Application Conference with the Zoning Administrator.

B. Sketch Plan Stage.

1. Purpose: The Sketch Plan Stage provides an opportunity for the applicant of a proposed PUD to submit a plan to the County showing his/her basic intent and the general nature of the entire development prior to the Preliminary Plat Stage without incurring substantial cost for architectural, planning, engineering, legal or other services.
2. Submission Requirements. After the Pre-Application Conference and prior to the Preliminary Plat Stage, the applicant for a proposed PUD shall submit a Sketch Plan to the County in accordance Article 3 of the Lyon County Subdivision Ordinance.
3. Procedure. The Sketch Plan Stage shall be processed according to the procedures set forth for Sketch Plans in Section 3.2 of the Lyon County Subdivision Ordinance.

C. Preliminary Plat Stage.

1. Purpose. The purpose of the Preliminary Plat Stage is to provide a specific and particular plan for a proposed PUD, upon which the Planning Commission shall base its rezoning recommendation to the Board.
2. Submission Requirements. After approval of the Sketch Plan and prior to the Final Plat Stage, the applicant for a proposed PUD shall submit a Preliminary Plat to the County in accordance Article 4 of the Lyon County Subdivision Ordinance.
3. Procedure. The Preliminary Plat Stage shall be processed according to the procedures set forth for Preliminary Plats Section 4.2 of the Lyon County Subdivision Ordinance. In addition, all requirements for rezonings

set forth in Article 27 of the Lyon County Zoning Ordinance shall be met.

4. Planned Unit Development Agreement and Rezoning.
 - (a) The PUD Agreement is an agreement to be entered into between the Developer and the County to incorporate all terms, requirements and conditions of the PUD rezoning approval.
 - (b) After the Preliminary Plat and rezoning approval by the County Board, the PUD zoning ordinance map amendment shall be published, with reference made to the PUD Agreement text. The County shall be responsible for recording the ordinance and PUD Agreement with the Lyon County Recorder's Office, with all associated fees and costs to be incurred by the applicant, prior to issuance of any land use permit or within 60 days, whichever is less.

D. Final Plat Stage.

1. Purpose. The Final Plat stage serves as a complete, thorough and permanent public record of the PUD and manner in which it is to be developed. It shall serve in conjunction with other County Ordinances as the land use regulations for to the PUD. The Final Plat stage is intended only to add detail to, and to put in final form, the information contained in the Preliminary Plat and PUD Agreement.
2. Submission Requirements. After approval of the Preliminary Plat, PUD Rezoning and PUD Agreement, and prior to issuance of a land use permit, the applicant for a proposed PUD shall submit a Final Plat to the County in accordance Article 5 of the Lyon County Subdivision Ordinance.
3. Procedure. The Final Plat shall be processed according to the procedures set forth for Final Plats in Section 5.2 of the Lyon County Subdivision Ordinance.
4. Planned Unit Development Agreement. The PUD Agreement shall be modified as necessary to incorporate all terms, requirements and conditions of the PUD Final Plat approval and Developer's Agreement requirements of the Lyon County Subdivision Ordinance. The County shall be responsible for recording the modified PUD Agreement or addendum with the Lyon County Recorder's Office, with all associated fees and costs to be incurred by the applicant, prior to issuance of any land use permit or within 60 days, whichever is less.

SECTION 14.9**GENERAL REGULATIONS.**

Additional requirements for parking, signs, sewage systems and other regulations in are set forth elsewhere in this Ordinance including, but not limited to, Article 15 GENERAL REGULATIONS, Article 16 SIGN REGULATIONS, Article 18 ESSENTIAL SERVICES, Article 19 ANIMAL FEEDLOT REGULATIONS, Article 20 TOWERS and Article 21 RENEWABLE ENERGY CONVERSION SYSTEMS.

In addition, where not explicitly addressed in this Section or negotiated as part of the PUD agreement, PUD developments shall follow all requirements for the most similar zoning district(s).

ARTICLE 15. GENERAL REGULATIONS

SECTION 15.1 GENERAL REGULATIONS.

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various use districts, the permitted, accessory and conditional uses shall conform to the standards enumerated in this Article.

SECTION 15.2 OFF-STREET PARKING AND LOADING REGULATIONS.

All parking hereafter constructed or maintained shall conform to the provisions of this section and any other ordinances or regulations of Lyon County:

- A. **Minimum Size Regulations.** Each space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than eight and one-half (8 ½) feet and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles which they are designed to serve.
- B. **Reduction and Use of Parking and Loading Spaces.** On-site parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. Such required parking or loading space shall not be used for storage of goods of vehicles that are inoperable or for sale or rent.
- C. **Computing Requirements.** In computing the number of such parking spaces required, the following rules shall govern:
 - 1. Floor area shall mean the gross floor area of the specific use.
 - 2. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
 - 3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Planning Commission and the County Board.

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

In a "C-I" HIGHWAY COMMERCIAL DISTRICT, no parking or loading space shall be located within thirty (30) feet of any property line that abuts on a road or highway right-of-way, or any non-"C-I" DISTRICT.

E. Buffer Fences and Planting Screens. On-site parking and loading areas near or abutting a protected residential area as defined herein, shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site plan, and such fence or landscaping shall be installed as a part of the initial construction.

F. Access.

1. Parking and loading space shall have proper access from a public right-of-way.
2. The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard.
3. Vehicular access to business or industrial uses across property in a protected residential area, as defined herein shall be prohibited.

G. Location of Parking Facilities and Combined Facilities. Required on-site parking space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more buildings or uses in "C-I" DISTRICTS, provided that the total number of spaces shall equal the sum of the requirements for each building or use.

H. Construction and Maintenance.

1. In "C-I" DISTRICTS, parking areas and access drives shall have proper surface drainage, as recommended by the County.
2. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

I. Lighting. Lighting shall be reflected away from the public right-of-way and nearby or adjacent non- C-I DISTRICTS.

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

- K. Required Number of On-Site Parking Spaces. On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:
1. One family dwelling - Three (3) parking spaces. No garage shall be converted into living space unless other acceptable on-site parking space is provided.
 2. Multiple dwelling or mobile home - Two (2) parking spaces per dwelling unit, apartment unit, or mobile home.
 3. Churches - One (1) parking space for each four (4) seating spaces, based on the design capacity of the main seating area.
 4. Public elementary, junior high school or similar private school - Two (2) parking spaces for each classroom.
 5. Public administration buildings, community center, public library, museum, art galleries, post office and other public service buildings - One (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
 6. Golf course, golf clubhouse, country club, gun club, swimming club, tennis club, public swimming pool - Twenty (20) spaces, plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
 7. Professional offices, medical and dental clinics and animal hospital - One (1) parking space for each five hundred (500) square feet of floor area.
 8. Office building - One (1) parking space for each five hundred (500) square feet of floor area.
 9. Shopping Center - Where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three (3) square feet of gross parking area for each one (1) square foot of gross floor area; separate on-site space shall be provided for loading and unloading.
 10. Automobile service station - Four (4) parking spaces, plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.

11. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sales, auto repair - One (1) parking space for each five hundred (500) square feet of floor area.
 12. Bowling alley - Five (5) parking spaces for each bowling lane.
 13. Drive-in restaurant - Twenty (20) parking spaces or one (1) space for each twenty (20) square feet of floor area, whichever is greater.
 14. Motel or motor hotel - One (1) parking space for each rental room or suite.
 15. Assembly or exhibition hall, auditorium, theater or sports arena - One (1) parking space for each four (4) seats, based upon design capacity.
 16. Restaurant, café, nightclub, tavern or bar - One (1) parking space for each seventy-five (75) square feet of customer floor area.
 17. Retail stores and service establishments - One (1) parking space for each one hundred (100) square feet of floor area.
 18. Research, experimental or testing stations - One (1) parking space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is the greater.
 19. Storage, wholesale or warehouse establishments - One (1) parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is greater plus one (1) space for each company motor vehicle when customarily kept on the premises.
 20. Manufacturing or processing plant - One (1) off-street parking space for each two (2) employees on the major shift or one (1) off-street parking space for each one thousand (1,000) square feet of gross floor area within the building, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.
- L. Required Loading Areas. Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use.

SECTION 15.3 INDIVIDUAL SEWAGE TREATMENT SYSTEMS STANDARDS AND MAINTENANCE PROGRAM.

Pursuant to M.S.A. 394.25 subd 8, as amended, the County Board hereby adopts by reference Minnesota Rules chapter 7080, as amended, relating to Individual Sewage

Treatment Systems. Provisions of these rules shall be as much a part of this Ordinance as if they had been set out in full herein when adopted by this reference.

SECTION 15.4 EXTRACTION OF MATERIAL, OPEN PITS AND IMPOUNDING OF WATERS.

- A. Purpose. All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this Section and any other ordinance or regulations of Lyon County.

- B. Definitions.
 - 1. Applicant(s), as used in this Section, shall be a combination of the responsible parties for the siting, construction and operation of an excavation site including the property owner

 - 2. Excavations, as used in this Section, shall mean any artificial excavation of the earth, within the county dug, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or mode by tunneling or breaking or undermining the surface of the earth.

- C. Conditional Use Permit Required.
 - 1. No person shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him/her, any open pit or excavation or any impounded water, without first making an application for and obtaining from the Planning Commission and County Board a Conditional Use Permit therefore.

 - 2. Exceptions. The following excavations shall not require a conditional use permit:
 - (a) Excavations ancillary to other construction or any installation erected or to be erected, built or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed are exempt, if a permit has been issued for such construction or installation.

 - (b) Excavations not exceeding one hundred (100) cubic yards and excavations including impounding of water for agricultural purposes are exempted.

3. Temporary asphalt or concrete plants associated with a road project shall not require a conditional use permit if the following conditions are met:
 - (a) The plant shall not be on the property for more than one (1) calendar year, except the Zoning Administrator may grant up to 6 additional months to accommodate unforeseen delays and/or additional projects that will be served by the same plant.
 - (b) The applicant shall secure a land use permit from the Planning and Zoning Office. The permit shall be accompanied by a map or statement identifying haul roads to be used.
 - (c) All other applicable standards as set for the in this Section shall be met.
- D. Application. In addition to applying for a Conditional Use Permit as regulated in Article 22 of this Ordinance the applicant shall furnish the following:
 1. His/her true name and address.
 2. A full description of the location of the land where the pit or excavation is or is to be or where the impounded waters are or are to be maintained and also a full description of the location on such land of the pit, excavation or impounded waters.
 3. When required by the State of Minnesota, an approval by the State to impound such waters or to make such excavation as described in the application.
 4. The purpose of the pit or excavation or the quantity of water impounded.
 5. The highways, roads, or other public ways in the county upon and along which any material for removal is to be hauled or carried.
 6. The estimated time when building or removing will begin and be completed.
- E. Filing of Map. The Planning Commission may require a map of the proposed pit or excavation to be made and filed with the application before acting on the same, showing the confines or limits thereof, together with a plan indicating the topography and overall condition of the site after extraction is completed. A similar map may be required in regard to the proposed container for the impounded waters.
- F. Conditions of Permit. The Planning Commission and the County Board, as a prerequisite to the granting of a permit, may require the applicant to whom such

permit is issued or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

1. Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks.
 2. Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful, as the Board shall determine.
 3. Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted.
 4. Remove excavated material from any pit or excavation away from the premises, upon and along such highways, streets or other public ways as the Board shall order and direct.
 5. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition.
 6. Grade site after extraction is completed so as to render it usable, seeding required to avoid erosion and an unsightly mar on the landscape.
- G. Bond May be Required. The Planning Commission or County Board may require either the applicant or the owner or user of the property on which the open pit or excavation or impounded waters is located to post a bond, in such form and sum as the County Board shall determine, with sufficient surety running to the county, conditioned to pay the county the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials for any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Section and the particular permit, and to pay any expense the county may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

SECTION 15.5 DISPOSAL OF PETROLEUM CONTAMINATED SOILS.

- A. Applicant shall have Minnesota Pollution Control Agency permit prior to submitting an application to the Zoning Administrator for the disposal of petroleum contaminated soils for treatment by microbioorganisms. Applicant shall submit a general site plan showing the location of the activity, surrounding buildings and surface waters.

SECTION 15.6 ENVIRONMENTAL REVIEW PROGRAM.

- A. Adoption by Reference of Certain Terms and Regulations for the Administration of the County Environmental Review Program. Pursuant to Minnesota Statutes 394.25 subd. 8, as amended, the County Board adopts by reference Minnesota Rules, chapter 4410, Environmental Review, as amended, and the terms used in Minnesota Statutes 116 D, as amended, State Environmental Policy. Provisions of these rules and terms shall be as much a part of this Ordinance as if they had been set out in full herein when adopted by this reference.
- B. Cost of Preparation and Review.
1. Information to be provided. The applicant for a permit for any action for which environmental documents are required, either by state law or rules or by the County Board, shall supply in the manner prescribed by the Zoning Administrator all unprivileged data or information reasonably requested by the county that the applicant has in his/her possession or to which he/she has reasonable access.
 2. Environmental Assessment Worksheets. The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required either by state law or rules or by the County Board shall pay all costs of preparation and review of the EAW, and upon the request of and in the manner prescribed by the Zoning Administrator shall prepare a draft EAW and supply all information necessary to complete that document.
 3. Environmental Impact Statement. The county and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements one copy of which is on file in the office of the County Auditor, unless the applicant and the County Board, provide otherwise by a written agreement.
 4. Payment of Costs. No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this Ordinance and the rules adopted by reference by this Ordinance, and pursuant to any written agreement entered into by the applicant for the permit or permits and the County Board under the provision of Section 15.6.B.5.
 5. Agreements Concerning Cost of Preparation and Review. The applicants for a permit for any action for which an EAW or EIS is required and the County Board may, in writing, agree as to a different division of the costs

of preparation and review of any EAW or EIS as provided in Minnesota Rules, part 4410.6100, as amended.

C. Administration.

1. The Zoning Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minnesota Rules, part 4410.1000, as amended. The Zoning Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this Ordinance and shall notify the Planning Commission and the County Board of these proposed actions.
2. All EAW's and EIS's shall be prepared under the supervision of the Zoning Administrator reviewed by the Planning Commission and reviewed and approved by the County Board.
3. When reviewing an EAW or EIS, the Zoning Administrator and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The County Board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.
4. After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the County Board whether or not it should require the preparation of an EIS. The County Board shall require an EIS when it finds under Minnesota Rules, part 4410.1700, as amended, that an action is major and has potential for significant environmental effects.

D. Optional Environmental Assessment Worksheet. The County Board may, upon recommendation by the Zoning Administrator require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

1. Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
2. Is the action likely to have disruptive effects such as generating traffic and noise?
3. Are there public questions or controversy concerning the environmental effects of the proposed actions?

E. Enforcement and Penalty.

1. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.
2. Any person who violates any provision of this Ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or by imprisonment as established by State Statutes. Each day that the violation is permitted to exist constitutes a separate offense.
3. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Ordinance are fully complied with.

SECTION 15.7 PERFORMANCE STANDARDS.

It is the intent of this Section to provide that uses of land and buildings in ALL CLASSES OF BUSINESS DISTRICTS shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each use shall be a good neighbor to adjoining properties.

- A. Relationship to Other Laws. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected and maintained in violation of any state or federal pollution control or environmental protection law or regulation.
- B. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawns, trees, shrubs, etc. Any areas left in natural state shall be properly maintained in a sightly and well-kept condition.
- C. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence beat frequency, shrillness or intensity, except for noise from agricultural sources. Noise generated by agricultural use shall be exempted.
- D. Odors. Any use established, enlarged, or remodeled shall be so operated as to prevent the emission of odorous matter of such quantity as to be readily detectable at any point beyond the lot line of the site on which such use is located. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a land use permit, except odors from agricultural sources.

- E. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.
- F. Vibration. Any use creating periodic earth-shaking vibrations shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.
- G. Glare and Heat. Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.
- H. Smoke and Particulate Matter. Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or particulate matter.
- I. Toxic or Noxious Matter. Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business. Any such use shall not discharge into the atmosphere, water, or subsoil, any toxic or noxious matter.
- J. Explosives. Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred (400) feet from any residence. This section shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes.
- K. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.
- L. Electrical Emission. All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.
- M. Compliance. In order to insure compliance with the performance standards set forth above, the County Board may require the owner or operator of any Permitted or Conditional Use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the County.

SECTION 15.8 ACCESSORY BUILDINGS.

- A. Whenever an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Ordinance applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building, except as otherwise provided in this Ordinance.
- B. A detached accessory building shall not be located in any required front yard. Where a lot is located at the intersection of two or more roads or highways and required to have front yards on each road, detached accessory buildings shall not be located within either front yard.

SECTION 15.9 HOME OCCUPATIONS.

- A. In any zoning district where Home Occupations and Extended Home Occupations are authorized, the following regulations shall apply:
 - 1. All Home Occupations and Extended Home Occupations.
 - (a) Shall not create odor, dust, noise, electrical disturbances, glare or vibrations noticeable beyond the property line.
 - (b) No sign shall be allowed other than one (1) non-illuminated name plate containing an area of not more than:
 - (1) Sixteen (16) square feet in size in any Restricted Residential Area.
 - (2) Thirty two (32) square feet in size in any non-Restricted Residential Area shall be allowed.
 - (c) Rural-Oriented Commercial Uses, Kennels and Salvage Yards may not be conducted as a Home Occupation or an Extended Home Occupation, unless otherwise allowed within the zoning district where the dwelling is located.
 - 2. Home Occupations.
 - (a) There shall be no outside storage of material or equipment or display of merchandise.
 - (b) No home occupation shall require substantial interior or exterior alterations of the dwelling, otherwise change the residential

character of the dwelling, or have any exterior evidence of such secondary use, except any signs permitted herein.

- (c) Not more than four vehicles for customers, delivery or employees not residing on the premises may be parked outside at any one time.
- (d) No home occupation shall occupy an area of more than 25% of the gross floor area of the dwelling nor more than 25% of an attached or detached garage.

3. Extended Home Occupations.

- (a) Any Home Occupation which involves any of the following shall be considered an Extended Home Occupation as defined in Section 4.2:
 - (1) Any activity, including retail selling of products raised on the premises of an agricultural operation, which employs more than 3 persons not residing on the premises.
 - (2) Repair or maintenance of equipment or vehicles other than for the owner's own personal or agricultural use;
 - (3) Service, assembly or construction of goods requiring equipment other than customarily found within a home or an agricultural operation; and/or
 - (4) More than 150 square feet dedicated to the display for sale or order of merchandise and/or stock not produced on the premises.
 - (5) Occupying more than 25% of a dwelling, more than 25% of an attached or detached garage, or in a separate accessory structure.
- (b) The principal operator or owner of the Extended Home Occupation shall reside on the premises.
- (c) The Extended Home Occupations shall not generate hazardous waste unless a plan for off-site disposal of waste is approved.

SECTION 15.10 ADDITIONAL REQUIREMENTS, EXCEPTIONS AND MODIFICATIONS.

- A. Height limitations set forth elsewhere in this Ordinance may be increased by one hundred (100) percent when applied to the following:
 - 1. Monuments.
 - 2. Flag poles.
 - 3. Cooling towers.
- B. Height limitations set forth elsewhere in this Ordinance may be increased with no limitation when applied to the following:
 - 1. Church spires, belfries or domes which do not contain usable space.
 - 2. Water towers.
 - 3. Chimneys or smokestacks.
 - 4. Essential service structures.
 - 5. Commercial grain elevators.
- C. Height limitations set forth within individual zoning districts may be increased with no limitation when applied to the following, except as may be limited in Article 20 and 21.
 - 1. Renewable energy facilities,
 - 2. Personal wireless communication facilities.
 - 3. Structures less than 65 square feet in area.
- D. Yard requirements set forth elsewhere in this Ordinance may be reduced with no limitation when applied to the following:
 - 1. Any structure 65 square feet in area or less.
- E. Sight triangle. The required front yard of any lot shall not contain any wall, fence or structure, tree or shrub or other growth which may cause danger to traffic on the road or public road by obscuring the view. Agricultural crops shall be exempt from this provision.
- F. Vegetation setback. The required front yard of any lot shall not contain any windbreak within sixty (60) feet of any road right-of-way. Agricultural crops shall be exempt from this provision.

- G. Temporary structure setback. The required front yard of any lot shall not contain any temporary structure or stacking of materials including agricultural products within one hundred (100) feet of any road right-of-way.
- H. A legally binding restrictive covenant or other similar legal instruments may provide other restrictive standards than set forth in this Ordinance.
- I. Fences. The following regulations shall apply to all fences in all districts except agricultural uses in any district. All boundary line fences shall be entirely located upon the private property of the person, firm or corporation constructing, or causing the construction of such fences, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. No setback requirements shall apply. Fences shall not exceed six (6) feet in height in the side and rear yards and shall not exceed forty-two (42) inches in height in the front yard. Fences in the C-I District shall not exceed six (6) feet in height except security fences, which shall not exceed eight (8) feet in height including barbed wire toppings. No fences shall be constructed within utility easements unless provision exists or can be made for access by the utility company. All fences shall be constructed in such a manner that the person, firm or corporation owning said fence can maintain the fence.
- J. Any structure 65 square feet in area or less shall not require a building permit. This pertains to Articles “A” Agricultural District, “R” Suburban Residence District, “UE” Urban Expansion District, “C-I” Highway Commercial District, “RR” Rural Residential District, and the “UV” Unincorporated Village District.

SECTION 15.11 RESIDENTIAL DEVELOPMENT AND DENSITY STANDARDS.

- A. Permitted Dwellings. Where allowed as a permitted or conditional use within a District, but required to follow the requirements of this Section, single family dwellings, or lot splits/subdivisions to create lots for single family dwellings, shall be subject to the following conditions:
 - 1. Density Factors. For the purposes of this Section, the following shall be the density factors for the respective districts:
 - (a) “A” AGRICULTURAL DISTRICT: Eighty (80) acres or two quarter-quarter sections.
 - (b) “RR” RURAL RESIDENTIAL DISTRICT: Forty (40) acres or one quarter-quarter section.
 - (c) “UE” URBAN EXPANSION DISTRICT: Forty (40) acres or one quarter-quarter section.

2. Density Variance in the Agricultural District.

Landowner may apply for a variance regarding density in an agricultural district. The Board of Adjustment shall consider the following factors in addition to the factors listed in Section 26.4:

- (a) Productivity of the land.
- (b) Resources of the land (i.e. gravel).
- (c) Existing neighboring uses.
- (d) Any other relevant considerations.

3. Minimum Tract Size.

- (a) The tract of land involved shall comprise an area at least equal to the density factor for the District.
- (b) The right-of-way of any public road adjacent to and included in the description of the property may be included in the calculation of the density factor.
- (c) The tract of land involved shall be contiguous and in common ownership.

4. Number of Dwellings Allowed. The number of dwelling units allowed shall be calculated as follows:

- (a) In the "RR" RURAL RESIDENTIAL and "UE" URBAN EXPANSION DISTRICTS, one dwelling unit shall be allowed per forty (40) acres or one quarter-quarter section, except that additional dwellings may be permitted as outlined in Section 15.11F below.
- (b) In the "A" AGRICULTURAL DISTRICT:
 - (1) The total acreage of the tract shall be calculated.
 - (2) The density factor for the District shall be subtracted from this total for each existing dwelling unit.
 - (3) The result from (1) and (2) above shall be divided by the density factor for the District.

- (4) The result shall be the maximum number of dwelling units allowed on the entire tract, except that additional dwellings may be permitted as outlined in Section 15.11F below.

B. Lot Requirements.

1. Each new dwelling is to be retained on a separate lot.
2. The lot shall contain a minimum of 5 acres. Smaller lot sizes may be achieved through clustering of dwellings with a conditional use permit in the circumstance described under Section 15.11.C.
3. The lot shall have a minimum width of not less than one hundred fifty (150) feet at the building line and a minimum depth of not less than two hundred (200) feet.
4. If the lot size is less than the density factor for the District, the property owner(s) shall:
 - (a) Sign and record a deed restriction to apply to the remainder of the tract from which the dwelling eligibility was derived. The restriction shall limit any further residences, divisions or non-agricultural development of the remainder of the tract, unless it is rezoned; OR
 - (b) Plat the entire tract. Each dwelling shall be placed on a separately subdivided lot. The remainder of the platted land shall be platted as an outlot(s) with a deed restriction which shall limit any further residences, divisions or non-agricultural development unless it is rezoned.
 - (c) The purpose of these requirements is to ensure that land may only be used once for the purpose of determining residential density. Land already used to calculate allowable density may not be combined or reconfigured with any other land for additional residential development purposes.

C. Density Transfer/Clustering.

1. In the "A" AGRICULTURAL DISTRICT:
 - (a) Residential lots may be located anywhere (subject to the siting criteria in this Section) within the entire tract of land being used to calculate the allowed number of dwellings, provided it shall be located within the same Section of land.

(b) If density transfer of two or more lots/dwellings occurs, the County may require shared access drives. Density transfer occurs if the residential lot is not located within the 80 acres (or two quarter-quarter sections) from which the density eligibility was derived.

2. In the "RR" RURAL RESIDENTIAL and "UE" URBAN EXPANSION DISTRICTS, the lots must be located on the forty (40) acres or quarter-quarter section from which the density eligibility was derived (i.e. no density transfer allowed).

D. Siting Criteria. Dwellings shall not be permitted:

1. Within required setbacks of an existing feedlot as set forth in Article 19, except for dwellings of the feedlot operator or property owner.

2. In areas classified as wetlands or floodways.

3. On land that has an agricultural crop equivalency (CER) rating of greater than sixty (60) as determined by the USDA or NRCS soils rating. In the event that the property does not contain any, or an adequate amount of, area that meets this requirement to accommodate the allowed number of dwellings, dwellings may be constructed elsewhere on the tract(s) by conditional use in accordance with Section 15.11E.

E. Single Family Dwellings on High Quality Farmland Soils. Single family dwellings that do not meet the siting criteria regarding CER rating in Section 15.11.D.3. may be allowed by conditional use provided that:

1. All other applicable conditions of this Article are still met.

2. The dwelling(s) is sited to preserve the maximum amount of contiguous farmland or open space possible.

3. Other conditions as appropriate may be placed on the siting of the dwelling(s) to preserve farmland, open space and/or protect environmental features.

F. Mobile Homes. Mobile homes intended for single-family use may be permitted according to the following provisions.

1. One (1) mobile home in addition to the number of dwellings otherwise permitted in this Section may be allowed by Conditional Use Permit when:

(a) Farm employment must be the primary occupation of at least one adult occupant of the mobile home, or

- (b) There is a need to provide health care services to one or more residents of either the principal dwelling or mobile home.

The mobile home must be placed on the farmstead, although it may be subdivided into a separate lot for the purposes of securing a mortgage or maintaining separate ownership. If placed elsewhere on the parcel, it shall count toward the number of dwellings allowed under Section 15.11.A.3.

- 2. Mobile homes may otherwise be allowed by Conditional Use Permit if the applicant can otherwise demonstrate need. Such mobile homes must meet density requirements, and are not in addition to the number of dwellings allowed under Section 15.11.A.3.

G. Site Plan. All new dwellings shall be subject to submittal of a site plan as follows:

- 1. The site plan shall show the parcel, building dimensions, driveways, access roads, location of all wells, location of any septic and drain field systems, and other pertinent site data.
- 2. The Zoning Administrator shall certify that the soils are adequate for an individual sewage disposal system where applicable.
- 3. Reasonable revisions to the site plan may be required as a condition of approval.

SECTION 15.12 RESIDENTIAL STRUCTURES STANDARDS.

A. All dwellings, except mobile homes, shall:

- 1. Be at least twenty-one (21) feet wide and at least thirty (30) feet long. Width measurements shall not include overhangs and other projections beyond the principal walls
- 2. Be placed on a permanent foundation.
- 3. Have a pitched roof of at least 3/12, with the exception of earth-sheltered homes.
- 4. The roof shall have a minimum eave projection and roof overhang on at least two sides of 6 inches which may include a gutter.

B. Special Requirements for Mobile Homes.

All mobile homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

SECTION 15.13 RETAIL SELLING OF GOODS PRODUCED IN CONJUNCTION WITH AN AGRICULTURAL USE.

- A. Except temporary roadside stands, all structures must meet required setbacks.
- B. Temporary roadside stands shall not be located within any public right-of-way.

SECTION 15.14 SALVAGE VEHICLES, AGRICULTURAL/INDUSTRIAL EQUIPMENT AND PARTS.

- A. Unless specifically permitted by this Ordinance as a salvage yard, no scrap metal, or household appliances may be kept or stored outside any building in any district. Unlicensed or inoperable motor vehicles shall only be permitted as follows:
 - 1. Within any Restricted Residential Area, as defined herein, no unlicensed or inoperable vehicles may be stored unless completely within an enclosed structure.
 - 2. On residential lots not considered a Restricted Residential Area no more than one (1) unlicensed or inoperable vehicle may be stored unless completely within an enclosed structure.
 - 3. On an agricultural operation no more than three (3) unlicensed or inoperable vehicles may be stored unless completely within an enclosed structure.
 - 4. In conjunction with an auto/truck/equipment repair shop or similar commercial or industrial use where the vehicle is awaiting repair no more than four (4) unlicensed or inoperable vehicles may be stored unless completely within an enclosed structure.
 - 5. Inoperable shall mean unable to function under its own power and in need of repairs.
- B. Unless specifically permitted by this Ordinance as a salvage yard, for all uses except agricultural uses, salvage parts and equipment not currently being used

for the purpose of business activities shall be stored in a building, or screened from neighboring properties and public roads, or shall be removed from the property.

- C. For agricultural uses, the on-site salvage and storage of parts and equipment for the property owner's use for the purpose of farming activities shall be permitted. Storage of salvage parts and equipment shall not be located within the required front yard setbacks of the respective district.

SECTION 15.15 ADULT USES.

A. Background, Intent and Purpose.

1. The Minnesota State Attorney General prepared a report entitled "Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses," dated June 6, 1989. The Report considered evidence from studies conducted in Minneapolis and St. Paul and in other cities throughout the country relating to sexually oriented businesses, also called adult establishments.
2. The Attorney General's Report, based upon the above referenced studies and the testimony presented to it concluded, "that sexually oriented businesses are associated with high crime rates and depression of property values". In addition, the Attorney General's Working Group ". . . heard testimony that the character of a neighborhood can dramatically change when there is a concentration of sexually oriented businesses adjacent to residential property." The Report concluded that:
 - (a) Adult uses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other commercial uses;
 - (b) Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increased crime rates (sex-related crimes in particular), lowered property values, increased transience, and decreased stability of ownership;
 - (c) The adverse impacts which adult uses have on surrounding areas diminish as the distance from the adult use increases;
 - (d) Studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of adult uses are rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior;

- (e) The City of Phoenix, Arizona study confirmed that the sex crime rate was on the average 500 percent higher in areas with sexually oriented businesses;
 - (f) Many members of the public perceive areas within which adult uses are located as less safe than other areas which do not have such uses;
 - (g) Studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to adult uses;
 - (h) The Indianapolis, Indiana study established that professional real estate appraisers believe that an adult bookstore would have a negative effect on the value of both residential and commercial properties within a one to three block area of the store;
 - (i) The adverse impacts of adult uses are exacerbated when the uses are located near each other; and
 - (j) The presence of liquor establishments in the immediate vicinity of adult uses also compounds the adverse impacts on the neighborhood.
- 3. The County Board finds that the characteristics of Lyon County are similar to those of the cities cited by the Report when considering the effects of adult uses.
 - 4. The County Board finds, based upon the Report and the studies cited therein, that adult uses will have secondary effects upon certain pre-existing land uses within the County.

B. Location of Adult Uses.

- 1. An adult establishment may be located only in "C-I" HIGHWAY COMMERCIAL districts.
- 2. No adult establishment shall be located within five hundred (500) feet from any "R" SUBURBAN RESIDENCE DISTRICT. Measurements shall be made in a direct line from the nearest property line of the adult establishment to the nearest district boundary of the "R" SUBURBAN RESIDENCE DISTRICT.
- 3. No adult establishment shall be located within five hundred (500) feet from any residential lot in any other district. Measurements shall be made in a

direct line from the nearest property line of the adult establishment to the nearest property line of the residential lot. If a dwelling is on a lot five (5) acres or greater, measurements shall be made in a direct line from the nearest property line of the adult establishment to the nearest point measured three hundred (300) feet away from the dwelling.

4. No adult establishment shall be located within five hundred (500) from any day care center, school, establishment with a liquor license, library, park, religious institution, playground or other public recreational facility in any zoning district, whether within Lyon County or not. Measurements shall be made in a direct line from the nearest property line of the adult establishment to the nearest property line of the day care center, school, establishment with a liquor license, library, park, religious institution, playground or other public recreational facility.
 5. No adult establishment shall be located within five hundred (500) feet from any other adult establishment, whether within the limits of Lyon County or not. Measurements shall be made in a direct line between the nearest property lines each adult establishment.
- C. Enforcement. The County may enforce any provision of this Section by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

SECTION 15.16 STORMWATER MANAGEMENT.

- A. All development within Lyon County 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.
- B. Any activity requiring a National Pollutant Discharge Elimination System Permit per Minnesota Rules, chapter 7090, as amended, shall make application to the Minnesota Pollution Control Agency
- C. Any activity requiring a National Pollutant Discharge Elimination System Permit per Minnesota Rules, chapter 7090, as amended, shall also submit a stormwater management plan to the County.
 1. The plan shall be prepared in accordance with MPCA Best Management Practices.
 2. The plan must be approved by the County Engineer, upon approval by the Zoning Administrator, any affected road authority and the township in which the use is located, prior to the issuance of a zoning permit or subdivision approval.

3. Stormwater management facilities shall be constructed to manage runoff of a 100-year storm peak discharge for a duration of 24 hours.

ARTICLE 16. SIGN REGULATIONS

SECTION 16.1 PURPOSE.

All signs hereinafter erected, altered, substantially repaired, relocated or maintained shall conform to the provisions of this Ordinance. No sign shall be allowed in any zoning district unless it is a permitted use, conditionally permitted use or accessory use established in accordance with the provisions of this Ordinance.

SECTION 16.2 SIGNS GENERALLY.

- A. All sign locations shall be kept free from unreasonable growth, debris or rubbish. Failure to correct such conditions after being so directed in writing by the zoning administrator shall be cause for revocation of the existing permit and removal of sign or signs on said location or locations.
- B. All signs shall be properly identified stating the name and address of the individual or firm responsible for the sign.
- C. Private signs other than underground utility warning signs are prohibited within public right-of-way and easements, provided, however, such underground utility is located within such right-of-way or easement.
- D. Illuminated signs may be permitted, except that devices giving off an intermittent or rotating beam of rays of light shall be prohibited.
- E. 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.
- F. Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.
- G. No lighting for signs shall directly reflect light beams onto any public road or highway.
- H. All signs shall be located outside of any public right-of-way; except as otherwise allowed in this Article or by permission of the appropriate road authority. A statement shall be filed with the Zoning Administrator in a form approved by the County Attorney stating that all costs of removal of the sign shall be borne by the applicant should the widening of the road necessitate removal or relocation of the sign.

- I. No sign, except as may be allowed through with any State, County, Township or other local government off-site directional sign program, in excess of three (3) square feet shall be less than five hundred (500) feet from the intersection of two or more public roads or less than five hundred (500) feet from the intersection of a public road and a railroad, provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.

SECTION 16.3 PERMITTED SIGNS.

The following signs are allowed without a permit but shall comply with all other applicable provisions of this Article.

- A. Government signs. Signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of their official duties.
- B. Directory signs. A wall sign which identifies the business, owners, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising. There may be one (1) directory sign per zoning lot not to exceed two (2) square feet per business or resident occupant. Home occupations and extended home occupations may display a directory sign.
- C. Directional and parking signs (on-site). On-site directional and parking signs intended to facilitate the movement of vehicles and pedestrians upon which the sign is located. Such signs shall not exceed six (6) square feet in total area.
- D. Directional, off-site. Off-site directional signs for the purpose of making specific commercial, industrial or public or semi-public locations known and to assist in finding these locations may be allowed in conformance with any State, County, Township or other local government program.
- E. Integral signs. Names of buildings, date of construction, commemorative tablets and the like, which are on the building or structure.
- F. Real estate signs. For the purpose of selling, renting or leasing a single parcel, a sign not in excess of twenty-five (25) square feet per surface may be placed in the front yard.
- G. Construction signs. The purpose of selling or promoting a residential project, commercial area, or an industrial area, one sign not to exceed two hundred forty (240) square feet of surface may be erected upon the project site.

- H. Election signs. Election signs are permitted in all districts provided such signs are removed within ten (10) days following the election. No election signs shall be permitted more than two months preceding the election the sign relates to.
- I. Agricultural product signs. Signs indicating that the proprietor of a farm is a dealer in seed, fertilizer or other agricultural products only when such dealership is incidental to the primary agricultural business of the farm.
- J. Crop demonstration signs. Any farm crop demonstration sign for informational use. Such signs shall not exceed two (2) square feet in area.
- K. Holiday signs. Signs or displays which contain or depict messages pertaining to a national or state holiday and no other material. Such signs may be displayed for a period not exceeding thirty (30) days.

SECTION 16.4 DISTRICT REGULATIONS.

- A. Signs allowed in the "FP" FLOODPLAIN DISTRICT, "A" AGRICULTURAL DISTRICT, "RR" RURAL RESIDENTIAL DISTRICT, "R" SUBURBAN RESIDENCE DISTRICT, "UE" URBAN EXPANSION DISTRICT, and residential portions of a "UV" UNINCORPORATED VILLAGE DISTRICT.
 - 1. Permitted signs. Permitted signs as regulated by Section 16.3.
 - 2. Institutional signs. Two (2) of which one (1) may be free-standing but not higher than twelve (12) feet in the single or combined surface area shall not exceed thirty-two (32) square feet.
 - 3. Home occupation signs as regulated in Article 15, Section 15.9.
 - 4. Residential signs.
 - (a) One (1) nameplate sign for each dwelling not to exceed two (2) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces.
 - (b) One (1) nameplate sign for each dwelling group of six (6) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.
 - (c) Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated by floodlights provided the source of the light is not visible from the public right-of-way or adjacent property.

5. Business signs. (land based on a commercial tax rate and is permitted by a conditional use permit)
 - (a) Sign not to exceed eight (8) feet in width.
 - (b) Height of frame erected to hold sign to be approximately sixteen (16) feet which will be determined by the surrounding area and at the discretion of the Planning Commission.
 - (c) No sign shall be so constructed as to have more than two (2) surfaces.
 - (d) Stacking of signs may be permissible at the discretion of the Planning Commission.
 - (e) All signs must be approved by the Lyon County Highway Engineer.
- B. Signs allowed in the "C-I" HIGHWAY COMMERCIAL DISTRICT, and commercial or industrial portions of an "UV" UNINCORPORATED VILLAGE DISTRICT.
 1. Permitted signs. Permitted signs as regulated by Section 16.3.
 2. Business and industry signs.
 - (a) Sign structures developed on property for which the sign relates shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per additional one hundred (100) feet of additional lot frontage. Such structure may not contain more than two (2) signs per facing not exceeding fifty-five (55) feet in total length.
 - (b) No sign may be erected within one Hundred (100) feet of an adjoining residential property.
 - (c) Maximum size of a permitted sign is four hundred (400) square feet of surface including border area.
 - (d) No sign shall exceed thirty-five (35) feet in height.
- C. General sign standards. These standards shall apply to all signs except permitted signs as listed in Section 16.3.
 1. No signs shall be erected on property for which the sign does not relate, except off-site directional signs as permitted in Section 16.3, as follows:

- (a) Closer than three hundred (300) feet from platted streets, roads or highways.
- (b) Within one hundred (100) feet of property used for church or school purposes.
- (c) Less than eight hundred (800) feet from any other advertising device on the same side of the right-of-way, except in the "C-I" DISTRICT.

SECTION 16.5 OFF-PREMISE ADVERTISING SIGNS (BILLBOARD).

Off-premise advertising signs may be erected on ground or wall location but not roof locations in the "C-I" DISTRICT subject to the following regulations:

- A. Spacing. Off-premise advertising signs on the same street, facing the same traffic flow shall not be placed closer together than three hundred (300) feet.
- B. Double face signs. Off-premise advertising signs can be double face and each side shall be considered as facing traffic flowing in the opposite direction.
- C. Size, height, and length of off-premise advertising signs. In all zoning districts in which off-premise advertising signs are permitted, such signs shall not exceed seven hundred fifty (750) square feet in total area including all faces, except on back-to-back signs. Height of the sign may not exceed Minnesota Department of Transportation's requirement. No off-premise sign shall exceed fifty five (55) feet in length.
- D. Setbacks. Off-premise advertising signs shall conform to the districts they are located in.
- E. Exclusionary areas. No off-premise advertising signs shall be directed or maintained within five hundred (500) feet of any park or within one hundred (100) feet of any residential zone, church, school or playground.

SECTION 16.6 INSPECTION.

All signs for which a permit is required shall be subject to inspection by the zoning administrator. The Zoning Administrator or his/her duly authorized representative may enter upon any property or premises to ascertain whether the provisions of this Ordinance are being obeyed. Such entrance shall be made during business hours unless an emergency exists. The county shall order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Article.

ARTICLE 17. SHORELAND STANDARDS

SECTION 17.1 STATUTORY AUTHORIZATION AND POLICY.

- A. Statutory Authorization. This Shoreland Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, chapter 103G, as amended Minnesota Rules, parts 6120.2500 - 6120.3900, as amended, and the planning and zoning enabling legislation in Minnesota Statutes, chapter 394, as amended.
- B. Policy. The uncontrolled use of shorelands of Lyon County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources.

SECTION 17.2 GENERAL PROVISIONS.

- A. Jurisdiction. The provisions of this Article shall apply to the shorelands of the public water bodies as classified in Section 17.4. Pursuant to Minnesota Rules, parts 6120.2500 - 6120.3900, as amended, no lake, pond, or flowage less than 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the County Board, be exempt from this Article.
- B. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Article and other applicable regulations.
- C. Enforcement. The Zoning Administrator is responsible for the administration and enforcement of this Article. Any violation of the provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

Violations of this Article can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 17.3.

- D. Interpretation. In their interpretation and application, the provisions of this Article 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 Statutes.
- E. Severability. If any section, clause, provision, or portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Article shall not be affected thereby.
- F. Abrogation and Greater Restrictions. It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other Articles inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

SECTION 17.3 ADMINISTRATION.

- A. Use Permits Required
 - 1. A use permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 17.5C. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
 - 2. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 17.6H, shall be reconstructed or replaced in accordance with the provisions of this Article.
- B. Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 17.3A. This certificate will specify that the use of land conform to the requirements of this Article. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Article and shall be punishable as provided in Section 29.1 of this Ordinance.

C. Variances. Refer to Article 26, Section 26.4.

SECTION 17.4 SHORELAND CLASSIFICATION SYSTEM.

A. Shoreland Classification System. The public waters of Lyon County have been classified below consistent with the criteria found in Minnesota Rules, part 6120.3300, as amended, and the Protected Waters Inventory Map for Lyon County, Minnesota.

1. The shoreland area for the water bodies listed in Section 17.4B and 17.4C shall be as defined in Section 4.2 and as shown on the Shoreland Overlay District Map, part of the Official Zoning Map.

B. Lakes

1. Natural Environment Lakes. These lakes are generally small often shallow, with limited capacities for assimilating the impacts of development and recreational use. Adjacent lands often have substantial constraints to development, such as high water tables and unsuitable soils.

Protected waters

<u>Inventory I.D.#</u>	<u>Lake Name</u>	<u>Township</u>	<u>Section</u>
42 - 2	School Grove	Lucas	36
42 - 3	North Twin	Monroe	19
42 - 5	South Twin	Monroe	30
42 - 13	Sham	Lucas	3
42 - 20	Lady Slipper	Lucas	23,24,25,26
42 - 29	Long	Custer	32,33
42 - 32	Lake of the Hill	Custer	20,21
42 - 37	Marshall	Lake Marshall	25,26,36
42 - 43	McKay	Rock Lake	3,4
42 - 52	Rock	Lyons	5,6
42 - 54	Brawner	Lyons	17
42 - 70	East Twin	Shelburne	20,29
42 - 71	Sanderson	Shelburne	21,28
42 - 74	West Twin	Shelburne	29,30,31,32
42 - 78	Marguerite (Wood Lake)	Coon Creek	4,9
42 - 81	Coon Creek Marsh	Coon Creek	7,8,17,18
42 - 93	East Goose	Island Lake	29,32,33
42 - 96	Island Lake	Island Lake	34

2. General Development Lakes. These lakes are generally large, deep lakes, or lakes of varying sizes and depths with high levels and mixes of

existing development. These lakes often are extensively used for recreation and are usually heavily developed around the shore. Second and third tiers of development are fairly common.

Protected waters

<u>Inventory I.D.#</u>	<u>Lake Name</u>	<u>Township</u>	<u>Section</u>
42 – 14	Cottonwood	Lucas	4,5,8,9
42 - 47	Yankton	Rock Lake	13,14,23
42 - 55	Clear	Lyons	18,19

C. Rivers and Streams

1. Transition Rivers. Transition river segments are generally either located within the Minnesota and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north-central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities.

	<u>begins</u>	<u>ends</u>
Redwood River	South section line, Sec 5, T110N, R42W	North section line, Sec 27, T111N, R42W

2. Agricultural Rivers. These river segments are located in well-roaded, intensively cultivated areas of the western and southern areas of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use occurs within commuting distance of major cities. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

	<u>begins</u>	<u>ends</u>
Redwood River	East section line Sec 27, T109N, R43W South section line, T111N, R42W South section line, Sec 27, T112N, R41W	North section line, Sec 8, T110N, R42W East section line, Sec 7 Sec 22, T111N, R41W SE1/4, Sec 15, T112N, R40W
Cottonwood	South section line, Sec 10, T109N, R42W	Border of Redwood and Lyon Counties

Three Mile Creek	West section line, Sec 23, T111N, R43W	Confluence with Redwood River in Sec 20, T112N, R40W
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Yellow Medicine River	Border of Lincoln and Lyon Counties	Border of Yellow Medicine and Lyon Counties
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3. Urban Rivers. These river segments are located within or adjacent to major cities throughout the state. A variety of residential and other urban land uses exist within these segments. These segments have potential for additional development, redevelopment, and recreational use.

	<u>begins</u>	<u>ends</u>
Redwood River	West section line, Sec 8, T111N, R41W	North section line, Sec 34, T112N, R41W

4. Tributary Streams. Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

- (a) All protected watercourses in Lyon County shown on the Protected Waters Inventory Map for Lyon County, a copy of which is hereby adopted by reference, not given a classification above shall be considered "Tributary".

SECTION 17.5 SHORELAND LAND USE DISTRICTS.

- A. Criteria For Designation. The land use districts in Section 17.5B, and the delineation of a land use district's boundaries on the Shoreland Overlay District Map, a part of the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

1. General Considerations and Criteria for All Land Uses:
 - (a) preservation of natural areas;
 - (b) present ownership and development of shoreland areas;
 - (c) shoreland soil types and their engineering capabilities;
 - (d) topographic characteristics;

- (e) vegetative cover;
- (f) in-water physical characteristics, values, and constraints;
- (g) recreational use of the surface water;
- (h) road and service center accessibility;
- (i) socioeconomic development needs and plans as they involve water and related land resources;
- (j) the land requirements of industry which, by its nature, requires location in shoreland areas; and
- (k) the necessity to preserve and restore certain areas having significant historical or ecological value.

B. Land Use District Descriptions. The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Shoreland Overlay District Map, a part of the Official Zoning Map for the shorelands of this county. These land use districts are in conformance with the criteria specified in Minnesota Rules, part 6120.3200, subp. 3, as amended:

Land Use Districts For Lakes, Rivers, and Streams. For the lake and stream classes, districts, and uses, P = permitted uses, C = conditional uses, and N = prohibited uses.

Residential/Agricultural District in the Shoreland Overlay District. This district is primarily intended to allow limited commercial development only for lands already developed or suitable for development. It is also intended to limit the uses in these areas that cause conflicts or problems for agricultural uses. Some residential uses with minimal impacts on agricultural uses are allowed if properly managed. This district is the Shoreland Overlay District covered by the same areas delineated by the "A" AGRICULTURAL DISTRICT, "RR" RURAL RESIDENTIAL, "UE" URBAN EXPANSION, "UV" UNINCORPORATED VILLAGE, and "R" RESIDENTIAL DISTRICT.

	General Development Lakes	Natural Environment Lakes	Transition Rivers	Agricultural Rivers	Urban Rivers	Tributary
Single Residential	P	P	P	P	P	P
Semipublic	C	C	C	C	C	P
Parks and historic sites	C	C	C	C	P	C
Extractive use	C	C	C	C	C	C
Duplex, triplex, quad residential	C	C	C	C	C	C
Commercial	C	C	C	C	C	C
Industrial	C	N	N	N	C	C

C. Use and Upgrading of Inconsistent Land Use Districts.

1. When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the Shoreland Overlay District Map, a part of the Official Zoning Map, this decision shall be made by the County Board.

SECTION 17.6 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

A. Lot Area and Width Standards.

Lot standards in the underlying zoning districts are stricter and supersede the lot dimensions identified in this Section. The following lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this Ordinance, may be used as minimum dimensions, if a variance has been granted.

1. Unsewered Lakes

(a) Natural Environment:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

(b) General Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered Lakes

(a) Natural Environment:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

(b) General Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. River/Stream Lot Width Standards. Minimum lot size requirements for rivers and streams are the same as required by the underlying districts. The lot width standards for single, duplex, triplex and quad residential developments for the six-river/stream classifications are:

	Trans- ition	Agri- cultural	Urban & Tributary	
			No sewer	Sewer
Single	250	150	100	75
Duplex	375	225	150	115
Triplex	500	300	200	150
Quad	625	375	250	190

4. Additional Special Provisions.

- (a) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
- (1) Each building must be set back at least 200 feet from the ordinary high water level;
 - (2) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - (3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - (4) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- (b) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 17.6A - 17.6C, provided the following standards are met:
- (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 - (2) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - (3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(c) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

- (1) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
- (2) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

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

- (3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- (4) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners.

Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must

limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

B. Placement and Design of Structures.

1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

(a) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level*.

Classes of Public Waters	Setbacks*		
	<u>Unsewered</u>	<u>Sewered</u>	<u>Sewage Treatment System</u>
<u>Lakes</u>			
Natural Environment	150	150	150
General Development	75	50	50
<u>Rivers</u>			
Transition Agriculture, Urban, and Tributary	150	150	100
	100	50	75

*One water-oriented accessory structure designed in accordance with Section 17.6.B.2. of this Ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

- (b) Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the water body:

<u>Setback From:</u>	<u>Setback (in feet)</u>
(1) top of bluff;	30
(2) unplatted cemetery;	50
(3) right-of-way line of federal, state, or county highway; and	100
(4) right-of-way line of town road, public street, or other roads or streets not classified.	100

- (c) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- (d) Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria For Structures.

- (a) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
- (1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
 - (2) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three 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, technical evaluations must be done by a qualified engineer or hydrologist consistent with

Minnesota Rules, parts 6120.5000 to 6120.6200, as amended, governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

- (3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (b) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 17.6.B.1. if this water-oriented accessory structure complies with the following provisions:
- (1) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - (2) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - (3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - (4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - (5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - (6) As an alternative for general development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the

structure is 20 feet as measured parallel to the configuration of the shoreline.

- (c) Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - (1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, and public open-space recreational properties;
 - (2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties;
 - (3) Canopies or roofs are not allowed on stairways, lifts, or landings;
 - (4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - (5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - (6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items (a) to (e) are complied with in addition to the requirements of Minnesota Rules, chapter 1341, as amended.
- (d) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (e) Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters

before issuing permits for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

C. Shoreland Alterations

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

1. Vegetation Alterations.

- (a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 17.6D are exempt from the vegetation alteration standards that follow.
- (b) Removal or alteration of vegetation, except for agricultural uses as regulated in Section 17.6.F.2., is allowed subject to the following standards:
 - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - along rivers, existing shading of water surfaces is preserved; and

- the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling.

- (a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Article must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- (b) Public roads and parking areas are regulated by Section 17.6D.
- (c) Notwithstanding Items (1) and (2) above, a grading and filling permit will be required for:
 - (1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (d) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - sediment and pollutant trapping and retention;
 - storage of surface runoff to prevent or reduce flood damage;
 - fish and wildlife habitat;
 - recreational use;
 - shoreline or bank stabilization; and

- noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

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

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

D. Placement and Design of Roads, Driveways, and Parking Areas.

- 1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- 2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- 3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 17.6.C.2. of this Ordinance must be met.

E. Stormwater Management. The following general and specific standards shall apply:

- 1. General Standards:

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

2. Specific Standards:

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

F. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, and Extractive Uses.

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

- (a) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; 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:
 - no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- (b) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially

screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards.

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

3. Extractive Use Standards.

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

G. Conditional Uses. Refer to Article 22, Section 22.3.

H. Water Supply and Sewage Treatment.

1. Water Supply.

- (a) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- (b) Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health. Wells already existing in areas subject to flooding shall be flood proofed, in accordance with procedures established in the statewide standards and criteria for management of Floodplain areas of Minnesota.

2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

- (a) Publicly-owned sewer systems must be used where available and where feasible.
- (b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.
- (c) With reasonable maintenance, sewage treatment systems will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute or contaminate any waters of the state.
- (d) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 17.6.B.1.
- (e) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in the sub items (1)-(6). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- (1) Lot size and shape;
 - (2) Depth to the highest known or calculated ground water table or bedrock;
 - (3) Soil conditions, properties, and permeability;
 - (4) Percent and direction of the slope at the proposed system location;
 - (5) The existence of lowlands, local surface depressions, and rock outcrops;
 - (6) Proximity to existing or future water supplies.
- (f) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 17.7C.

SECTION 17.7 NON-CONFORMITIES.

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

- A. Construction on nonconforming lots of record. Refer to Article 23, Section 23.11D.
- B. Additions/expansions to nonconforming structures. Refer to Article 23, Section 23.11D.
- C. Nonconforming sewage treatment systems.
 1. A sewage treatment system not meeting the requirements of Section 17.6H must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

2. The County Board has by formal resolution, notified the Commissioner DNR of its work plan to identify nonconforming sewage treatment systems. Lyon County will require upgrading or replacement of any nonconforming system. Upon identification, the owner of the nonconforming system will have up to 2 years to comply. A copy of the work program for sewage treatment systems is on file at the Zoning Administrators Office. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.221, as amended in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

SECTION 17.8 SUBDIVISION/PLATTING PROVISIONS.

- A. Land suitability. Each lot created through subdivision, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the county.
- B. Consistency with other controls. Subdivisions must conform to all official controls of this County. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Section 17.6B and 17.6H can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 17.6A, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- C. Information requirements. Sufficient information must be submitted by the applicant for the County to make a determination of land suitability. The information shall include at least the following:

1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 2. The surface water features required in Minnesota Statutes, Section 505.02, as amended, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities, consistent with the requirements of Section 24.2.B.1., for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 5. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
 6. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- D. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- E. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, chapter 505, as amended, and must submit a completed Environmental Assessment Worksheet (EAW) to the Minnesota Pollution Control Agency (MPCA). No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- F. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 17.6.A.4.

ARTICLE 18. ESSENTIAL SERVICES

SECTION 18.1 SCOPE OF REGULATIONS.

For purposes of this Ordinance essential service facilities shall be classified into two categories (major and minor essential service facilities) and regulated according to the procedures described herein.

SECTION 18.2 EXEMPT FROM REGULATIONS.

Required maintenance or rebuilding of any major or minor essential service facility, when such maintenance or rebuilding does not change, expand the capacity or change the capability or location of the existing facility, shall be exempt from the regulation of this Article.

SECTION 18.3 MAJOR ESSENTIAL SERVICE FACILITIES PROCEDURE.

Applications for locating any major essential services in any zoning district shall require a Conditional Use Permit as regulated in Article 22 of the Lyon County Zoning Ordinance in addition to being governed by the following procedures. Pipelines as defined in Minnesota Statutes section 116I.01 as amended, shall conform to procedures identified in 116I as amended in addition to this Ordinance.

- A. The applicant shall, on forms provided by the county, file an application, in duplicate, with the Zoning Administrator. The application shall include such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law to any state or federal agency. The application shall provide the name, address and telephone number of a contact person to which post construction inquiries related to exact location and depth of essential service facilities may be addressed. The application, in the case of pipelines other than water, shall outline a contingency plan including steps to be taken in the event of a failure, leak, or explosion occurring during operation of the pipeline. The operator of the pipeline shall demonstrate its capability and readiness to execute the contingency plan. The county shall have sixty (60) days from the date of initial completed application to accept, reject or modify the application.
- B. One set of the information required in Section 18.3A shall be furnished to the County Engineer, who shall review the information and forward his/her comments and recommendations to the Planning Commission and County Board.
- C. The maps and accompanying data shall be submitted to the Planning Commission for review and recommendations regarding the relationship to urban growth, land uses, drainage facilities, highways and recreation and park areas.

- D. Following such review, the Planning Commission shall make a report of its findings and recommendations on the proposed major essential service(s) and shall file such report with the County Board.
- E. Upon receipt of the report of the Planning Commission on the major essential service(s), the County Board shall consider the application, maps and accompanying data and shall indicate to the applicant its approval, disapproval, or recommend modifications considered desirable to carry out the intent of this Ordinance.

SECTION 18.4 PROVISIONS FOR MAJOR ESSENTIAL SERVICE CONSTRUCTION.

- A. Standards. For major essential service lines the Board establishes the standards for construction as outlined in Figure 1, which is hereby, made a part of this Ordinance.
- B. Conditions. In addition to the standards as provided for in Figure 1, the following conditions shall apply to major essential service lines:
 - 1. All drainage facilities and patterns shall be repaired to pre-construction condition as soon as possible after construction.
 - 2. Rocks, slash and other construction debris shall be removed from each individual section of land where construction takes place within ninety (90) working days of the commencement of major essential service construction on that individual section of land. For purposes of this subsection, working days are defined as: all days except days between November 15 and April 15 (winter), or any day when more than ½ inch of precipitation has fallen. For purposes of this subsection, section of land is defined as a numbered section as defined by the Government Land Survey, or a portion thereof.
 - 3. Shelterbacks, windbreaks, fences and vegetation shall be restored to pre-construction condition with the following exceptions.
 - (a) Shelterback and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service lines.
 - (b) Critical areas (slopes greater than 12%, drainage ditch banks and areas subject to severe erosion) shall be seeded and mulched as soon as possible after construction. Drainage ditch banks shall be seeded and mulched a minimum of 16 ½ feet in width from the top of the ditch spoil banks on each side of the ditch.

4. If preliminary engineering, surveys or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.
5. Major essential service construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.

SECTION 18.5 VARIANCES.

- A. Waiver of Depth Requirement. In any easement granting right-of-way for a pipeline over agricultural land the grantor of the easement may waive the minimum depth of cover established in Figure 1 with respect to all or part of the pipeline to be buried under that land. A waiver of the minimum depth of cover established in Figure 1 shall be effective only if the waiver:
 1. Is separately and expressly stated in the easement agreement and includes an express statement by the grantor acknowledging that he/she has read the understood the waiver.
 2. Is printed in capital letters and in language understandable to an average person not learned in law.
 3. Is separately signed or initialed by the grantor.
- B. Variances From Standards Established In Figure 1 May Be Granted Upon a Showing That:
 1. A depth or height less than that required in Figure 1 is reasonably necessary to allow transition from Lyon County to a bordering county.
 2. A variance is reasonably necessary to allow for a transition in depth from agricultural land for which a waiver has been granted according to this Section of this Ordinance and adjoining parcels of land.
 3. A variance is reasonably necessary for the installation of necessary essential service structures or appurtenances and the variance is for the immediate vicinity of the essential service structure.
- C. No variance shall be granted so as to allow the major essential service line to be placed at a depth less than the depth established in Figure 1 beneath the authorized depth of drainage facilities or the right-of-way of roads under the jurisdiction of the county.

SECTION 18.6 INSPECTION.

The County Board may require that a qualified inspector be on the site of installation of major essential service lines or structures. The County Board will establish a fee schedule for inspections consistent with applicable state laws and county policies. With respect to pipelines, the following shall apply. Before beginning construction a person proposing to construct a pipeline shall pay an inspection fee to the County Treasurer. The fee shall be in the amount up to \$500.00 for each mile or fraction of a mile of pipeline that will be constructed in the county. The County Board shall designate an inspector who shall conduct on-site inspections of the construction to determine whether the pipeline is constructed in compliance with the provisions of this Ordinance. The inspector shall promptly report to the County Board any failure or refusal to comply with the provisions of this Ordinance and shall issue written notice to the person constructing the pipeline specifying the violations and the action to be taken in order to comply. During on-site inspection the inspector shall maintain a written log which shall include a record of comments and complaints concerning the pipeline construction made by owners and lessees of land crossed by the pipeline and by local officials. The log shall note in particular any complaints concerning failure to settle damage claims filed by any owner or lessee or failure to comply with the terms of an easement agreement. The log, reports and other records of the inspector shall be preserved by the County Board.

SECTION 18.7 MINOR ESSENTIAL SERVICE FACILITIES PROCEDURE.

Application for locating any minor essential service in any township or county easement or right-of-way shall be governed by the following procedures:

- A. The applicant shall file with the County Engineer, on forms supplied by the county, an application for such permit accompanied by maps and drawings, if available, indicating the locations, alignment and type of service proposed.
- B. The application and accompanying data shall be reviewed by the County Engineer and the County Engineer may issue the permit after determining that the application is acceptable and in the best interests of the county.
- C. The County Engineer may require in conjunction with the issuance of such permit that:
 1. The applicant submits as-built drawings of the essential service after construction.
 2. The applicants construct the minor essential service to take into consideration contemplated widening, re-grading or relocation of a county highway or county state aid highway.

- D. Recognizing the need for adequate and timely service by owners of essential services, the County Engineer shall act upon permit applications at the earliest opportunity.

SECTION 18.8 GENERAL REGULATIONS.

Any essential service line or essential service structure not located within a public right-of-way or any utility easement required by the Lyon County Subdivision Regulations shall be set back at least ninety (90) feet from the centerline of any public road.

SECTION 18.9 ENFORCEMENT.

Any person violating the provisions of this Ordinance is guilty of a misdemeanor for each offense and may be subject to civil liability consistent with Minnesota Statutes 116I.06, subd. 10, as amended. Consistent with Minnesota Statutes 116I.06, subd. 9, as amended this Ordinance may be enforced by injunction, action to compel performance or other appropriate equitable relief in the district court of this county.

ARTICLE 19. ANIMAL FEEDLOT REGULATIONS

SECTION 19.1 ANIMAL FEEDLOTS GENERALLY.

No person shall permit or allow their land or property under their control to be used for any animal feedlot, and no animal manure from any animal feedlot shall be disposed of within the County of Lyon, except at an operation which has been approved in accordance with the provisions of this Article.

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

SECTION 19.2 EXEMPT FROM REGULATION.

Any animal feedlot not required to register with the MPCA under Minnesota Rules, part 7020.0350, as amended, shall be exempt from this Article.

SECTION 19.3 APPLICATION PROCEDURE.

Applications for locating any new animal feedlot or the expansion of an existing animal feedlot in Lyon County shall be governed by the following procedures:

- A. The owner of any proposed new animal feedlot or the expansion of an existing animal feedlot shall be required to obtain a land use permit from the Lyon County Zoning Administrator's Office.
- B. A proposed new animal feedlot or the expansion of an existing animal feedlot shall obtain all other necessary permits and follow all other applicable rules, statutes, or regulations.
- C. New animal feedlots or animal feedlots expanding to a capacity of 300 animal units or more requires a Conditional Use Permit.

SECTION 19.4 NON-CONFORMITIES.

- A. All existing animal feedlots that do not conform with setbacks, lot size requirements, or capacity will be allowed to remain on their present site.

SECTION 19.5 NEW FEEDLOT.

In order to prevent pollution of surface and ground water, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Section shall regulate new animal feedlots. New animal feedlots are defined in Article 4 animal feedlot.

SECTION 19.6 LOT SIZE, SETBACKS, CAPACITY.

A. Minimum lot size for a new animal feedlot is 5 acres.

B. Setbacks:

1. Schools, hospitals, and airports (Marshall and Tracy) will be considered part of the municipalities and will have the same setbacks as dwellings.
2. Setback distances from dwellings for all new animal feedlots shall be established at a minimum of 1,320 feet (1/4 mile). New animal feedlots shall also meet a 94% odor annoyance free rating. Animal feedlots shall not have to meet these setbacks from the animal feedlot owner/operator's own dwelling and/or animal feedlot.
3. Existing golf courses, rural churches, cemeteries, Rural Oriented Businesses as defined herein, and public parks will have the same setbacks as dwellings.
4. Setback distances from animal feedlots for all new dwellings, shall be the same as for animal feedlots from dwellings as outlined in Section 19.6.B.2.

Dwellings for an animal feedlot owner/operator shall not have to meet these setback requirements from their own animal feedlot.

C. Maximum Capacity. Total capacity of an animal feedlot is not to exceed 3000 animal units of which only 2,000 animal units can be swine.

SECTION 19.7 EXPANSION OF AN EXISTING FEEDLOT.

In order to prevent pollution of surface and ground water, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Ordinance shall

regulate the expansion of existing animal feedlots. Existing animal feedlots are defined in Article 4 of this Ordinance.

A. Setbacks.

1. The expansion of an existing animal feedlot within 1,320 feet of a dwelling shall meet the following tiered system:

Under 660' no expansion allowed

Over 660' must meet 94% odor annoyance free

2. Schools, hospitals, and airports (Marshall and Tracy) will be considered part of the municipalities and will have the same setbacks as dwellings.
3. Existing golf courses, rural churches, cemeteries, Rural Oriented Businesses as defined herein, and public parks will have the same setbacks as dwellings.

SECTION 19.8 MEASUREMENT.

- A. Measurement shall start at the nearest point of the new animal feedlot or the expanding portion of an existing animal feedlot to nearest point of dwelling; or
- B. Measurement shall start at the nearest point of animal feedlot to nearest point of the new animal feedlot or the expanding portion of an existing animal feedlot.
- C. Manure storage area is to be included as part of animal feedlot.
- D. The University of Minnesota Extension Service OFFSET "Odor From Feedlot Setback Estimation Tool" Publication No. FO-07680, 2001, by Larry Jacobson, David Schmidt, and Susan Wood, contains the information, guidelines and formulas to be used for calculation in percentage of time odor annoyance free periods.

ARTICLE 20. TOWERS

SECTION 20.1 PURPOSE.

The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of towers as defined herein. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Lyon County as set forth in the Lyon County Zoning Ordinance and Lyon County Comprehensive Land Use Plan, while at the same time not unduly restricting the development of needed tower facilities. These regulations are intended to:

- A. Minimize adverse visual effects of towers through careful design and siting standards;
- B. Avoid potential damage to adjacent properties from tower failure;
- C. 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
- D. Facilitate the provision of wireless telecommunication services to the residents and businesses of the County.

SECTION 20.2 DEFINITIONS. *These definitions pertain to Section 20.1 - 20.4.*

Camouflage Design. A tower that is disguised, hidden or screened, but remains recognizable as such. The design must be compatible with the year round historical, environmental and cultural character of the area.

Co-Location. The placement an antenna by two (2) or more service providers on a tower, building or structure.

Guyed Tower. A tower that is supported, in whole or in part, by wires and ground anchors.

Lattice Tower. A type of tower that is self-supporting with multiple legs and cross bracing of structural metal.

Monopole. A type of tower mount that is self-supporting through a single shaft usually

constructed of wood, metal or concrete.

Personal Wireless Telecommunications Antenna. A device consisting of a metal, carbon fiber, or other electromagnetically conducive rods of elements for the transmission of licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that are marketed to the general public.

Personal Wireless Telecommunication Facility. A personal wireless telecommunication antenna or tower.

Total Height. The distance between the ground level at the base of a structure and its tallest vertical extension including any attachment thereon.

Tower. A structure, privately or publicly owned, used for commercial purposes, upon which radio, television, cellular telecommunications, personal communication services, or other communication antennas and /or equipment of a similar nature is mounted, excluding towers, used for business band, citizen's band, amateur radio, personal television reception antennas, or other similar personal uses. This definition does not include wind energy conversion systems or meteorological towers associated with wind energy conversion systems.

SECTION 20.3 APPLICABILITY.

- A. Permits Required. Unless otherwise addressed herein, it shall be unlawful for any person, firm, or corporation to erect, to place a tower as defined herein in excess of 35 feet without first receiving the appropriate permit(s) from the Lyon County Planning & Zoning Office.
- B. Nothing in this Article shall exempt any owner or operator of a tower from conforming with applicable state or federal regulations governing said facilities, or any other provisions of this Ordinance.

SECTION 20.4 TOWER SETBACKS AND LOCATION.

- A. The tower shall have a minimum setback from the parcel and/or recorded easement boundary equal to the height of the tower. This setback may be reduced to one-half ($\frac{1}{2}$) the height of the tower provided that the applicant submits an engineering report from a registered professional engineer that certifies that the tower is designed and engineered to collapse upon failure within the distance from the proposed tower to the property line or recorded easement.

- B. Towers, including all support structures and security fencing, shall not be located within 500 feet of any Protected Residential Area or existing residence other than a residence on the parcel on which the tower is to be located.
1. Towers, including all support structures and security fencing, shall not be located within any Shoreland District.
 2. Any tower accessory buildings or structures shall be subject to the setback requirements listed for the respective zone district in which the tower is constructed, except where more restrictive by this Section.
- C. Fencing. If necessary for safety, the Zoning Administrator may require a tower to be secured by a fence at least six (6) feet in height with a locked gate to prohibit access by unauthorized persons. The radius of the perimeter shall be sufficient to contain the tower and all support equipment and accessory buildings. In addition, the bottom of the structure (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing.
- D. Signage. No advertisement or identification of any kind is permitted on a tower or antenna except applicable warnings and equipment information as required by the manufacturer or by Federal, State or Local authorities. The owner's name, telephone number and site ID numbers shall be posted on the gate of the perimeter fence.
- E. Lighting. Towers and antenna shall not be illuminated by artificial means except, the minimum illumination specifically required by the Federal Aviation Administration or other authority shall be allowed. Any light source utilized for security lighting shall feature down-directional, sharp cut-off luminaries that ensure there is no spillage of illumination off the parcel or easement boundary. A beacon light is an acceptable form of lighting.
- F. Abandoned and Obsolete Towers. All towers and antennas that have not been in use for 12 consecutive months shall be removed within 180 days from the end of the 12 month period.
- G. Design Requirements. Any proposed construction or modification of commercial wireless telecommunication facility must meet the following design requirements:
1. Towers shall be constructed of a monopole or other freestanding design without the use of guy-wires or supporting cables, unless the Zoning Administrator determines that an alternative design would better blend into the surrounding environment.

2. Towers and antenna, including support cables, structures and fencing shall be designed to blend into the surrounding environment to the maximum extent practical through the use of materials, colors and possible implementation of stealth or camouflage design.
3. Towers shall have either a galvanized finish or painted a non-contrasting color consistent with the surrounding area, unless otherwise required by federal law, and except towers may be painted red and white.
4. At the tower site, the design of the support buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
5. If an antenna is installed on a structure other than an independently standing tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
6. No part of any antenna or tower, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right of way, public street, highway, or sidewalk without approval from the Planning Commission, which may require approval from other appropriate entities.
7. Towers and antenna shall conform to applicable state, federal and local structural, electrical and any other relevant code requirements. When applicable, proposals to erect new antennas shall be accompanied by any required federal, state or local agency licenses or proof of application thereof, including FCC and FAA approvals.

H. Co-Location Requirements.

1. Proposals for new towers shall not be approved unless the applicant can reasonably document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing tower or building within a two-mile search radius of the proposed tower due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a competent registered professional structural engineer or a structural engineer with equivalent credentials, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate the planned equipment at a reasonable cost.

- (b) The planned equipment would cause interference materially impacting the usability of the other existing or planned equipment at the tower or building as documented by a competent electrical engineer specializing in radio frequency communications and the interference cannot be prevented at a reasonable cost.
- (c) Existing or approved towers or buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a competent electrical engineer specializing in radio frequency communications and/or structural engineer.
- (d) The applicants shall submit proof of best efforts to negotiate reasonable industry terms regarding the lease or purchase of space on an existing tower, or other reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- (e) Coverage objectives of the carrier cannot be met by using existing towers and or other structures within a two-mile radius.

2. Future Additional Users. For any proposed new tower:

- (a) Any proposed tower shall be designed structurally, electrically and in all respects able to accommodate both the applicants' antennas and comparable antennas for at least three additional users if over 100 feet in height; two total users if greater than 75- but under 100-feet in height.
- (b) Towers must be designed to allow for future arrangements of antennas and accept antennas mounted at varying heights.
- (c) An agreement shall be signed by the applicant and the property owner that requires the tower facility owner and successors to allow the shared use of the tower facility if additional users agree in writing to meet reasonable industry terms and conditions for shared use. Such agreement shall be attached to, and become part of any land use or conditional use permit. Prohibition of additional users on a tower will be considered a violation of applicable County permits and policy.

I. Permitting Requirements.

- 1. Towers, Antenna and Activities Not Requiring a Permit. The following towers, antenna and related activities shall not require a land use or conditional use permit:

- (a) Routine maintenance of existing tower facilities or modification of lighting to conform with federal, state or local requirements.
 - (b) The addition of antenna(s) to an existing tower that meet the standards of this ordinance and does not increase the height of the tower. Additional support facilities will still need an administrative land use permit.
2. Land Use Permits. The following towers, antenna and related activities shall require an administrative land use permit:
- (a) The addition or placement of accessory structures at a tower facility premises.
 - (b) The addition of antenna(s) on existing structures such as but not limited to buildings, flagpoles, church steeples, cupolas, ball field lights and power line support devices that results in an overall height of less than thirty-five (35) feet of the structure and does not require major modifications to the structure.
3. Conditional Use Permits.
- (a) When Required. The following towers, antenna and related activities shall require a conditional use permit:
 - (1) The placement of a new tower or expansion of an existing tower by adding to its overall height. If tower height does not increase, Section 20.4.I.1.(b) would pertain.
 - (2) The addition of antenna(s) on existing structures such as but not limited to buildings, flagpoles, church steeples, cupolas, ball field lights and power line support devices that results in an overall height of the structure of thirty-five (35) feet or more.
 - (3) The addition of antenna(s) to an existing tower that would increase the total height. If tower height does not increase, Section 20.4.I.1.(b) would pertain.
 - (b) Factors Considered in Granting Conditional Use Permits. The County Board shall consider the following factors in addition to the normally prescribed conditional use factors listed in the Lyon County Zoning Ordinance, in determining whether to issue a conditional use permit. The County Board may evaluate each of these criteria on a site-by-site basis with varying levels of

preference in determining how the goals of this ordinance are best served:

- (1) Capacity of the tower for additional antenna equipment to accommodate expansion, or to allow for co-location of another provider's equipment.
 - (2) Proximity of the tower to residential structures and Protected Residential Areas.
 - (3) Nature of uses on adjacent and nearby properties.
 - (4) Surrounding topography.
 - (5) Screening.
 - (6) Design and siting of the tower, with particular reference to design characteristics and location that have the effect of reducing or eliminating visual obtrusiveness.
 - (7) Proposed ingress and egress.
 - (8) Availability of suitable existing towers and other structures as outlined in this Article.
 - (9) Impact to the existing aesthetics and character of the surrounding area.
 - (10) Level of adherence to the provisions set forth in this Article.
- (c) Revocation of Permit.
- (1) The grounds for revocation of a conditional use permit shall be based on a finding that:
 - a. The permittee has failed to comply with the conditions of approval imposed,
 - b. The facility has not been properly maintained, or
 - c. The facility is no longer in use and has not been in use for the previous 12 months.
 - (2) In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 180 days of revocation. Failure

to do so will result in the County completing the removal and site restoration at the permittee's expense, which may be assessed against the property.

- (d) Application Requirements. In addition to the general requirements for conditional use permit applications, all applications for new towers shall also include the following:
 - (1) Co-location documentation (for new towers) required in Section 20.4.I and a map showing the search radius for the antenna location identifying any existing tower facilities, identifying all other structures that may be potential co-location sites and showing the proposed broadcast coverage obtained by the tower facility, and a narrative clearly explaining why the site was selected.
 - (2) Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less showing:
 - a. North arrow.
 - b. Graphic scale.
 - c. The location of the tower, support structures, transmission buildings and/or other accessory structures & uses, accesses, parking areas, fences, signs, lighting and landscaped areas.
 - d. Vicinity map showing all adjacent land uses, including existing businesses and residences, within 500 feet of the tower facility, including all support structures and security fencing.
 - e. Dimensions of the property (all property corners must be identified).
 - f. Setback distances from all property lines, right-of-ways and lakes.
 - g. Elevations.
 - h. Proposed tower materials, colors and design.
 - i. Topography and drainage.
 - (3) FAA, FCC and other applicable permit documentation.

(4) The Lyon County Planning & Zoning Office may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower applicant shall pay the cost of such review and/or independent analysis.

J. Effect of Ordinance on Existing Towers. Towers and antennas in all zoning districts and in existence prior to the adoption of this ordinance that do not conform to or comply with this ordinance are subject to the following provisions:

1. Towers may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respect with the provision contained herein.
2. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a land use permit if the cost of repairing the tower to its former use, location, and physical dimensions would be less than fifty (50) percent of its value, as determined by the Lyon County Assessor.

ARTICLE 21. RENEWABLE ENERGY ORDINANCE (REO)

SECTION 21.1 DEFINITIONS.

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

Array (Solar). Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.

C-BED Project. A C-BED Project is a Community Based Energy Development Project that must have local owners; no single owner may be allowed to own more than 15 percent of a project; must have a local resolution of support; and the Power Purchase Agreement must ensure levelized cash flow to the project owners. Based on their total name plate generating capacity, C-BED Projects are considered Micro-WECS, Non-Commercial WECS or Commercial WECS as defined in this Section.

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

Eligible Energy Technology. As defined in Minnesota Statutes 216B.1691, as amended.

Fall Zone. The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

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

Generator nameplate capacity. The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.

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

Large Solar Energy System. A solar farm, where the primary land use of the parcel is for a solar array. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have an Alternating Current (AC) rated capacity greater than 1 Megawatt (1 MW).

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

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

Midsize Solar Energy System. EA solar farm meant to generate electricity to be used on site and/or sold back to Power Utilities.

Module (Solar). A number of individual solar cells connected together in an environmentally protected housing producing a standard output voltage and power. Multiple modules/panels can be assembled into an array for increased power and/or voltage.

Non-Commercial WECS. A WECS of less than 100 kW and greater than 1 kW in total name plate generating Capacity.

Photovoltaic Array. A group of solar photovoltaic modules connected together to increase voltage and/or power to the level required for a given system.

Photovoltaic Device. A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

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

Project Boundary/Property line. The boundary line of the area over which the entity applying for a WECS or Solar Energy permit has legal control for the purposes of installation of a WECS or a Solar Energy System. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

Public conservation lands. Land owned in fee title by State or Federal agencies and managed specifically for [grassland] conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

Renewable Energy. Energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.

Rotor diameter (RD). The diameter of the circle described by the moving rotor blades.

Small Solar Energy System. A solar array that is an accessory use.

Solar cell. The basic unit of a photovoltaic solar panel.

Solar Easement. A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in Minnesota Statute Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.

Solar energy system. A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

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

Total height. The highest point, above ground level, reached by a rotor tip or any other part of the WECS project.

Total name plate capacity. The total of the maximum rated output of the electrical power production equipment for a WECS project or solar energy system.

Tower. Vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower height. The total height of the WECS exclusive of the rotor blades.

Tracking Solar Array. A solar array that follows the path of the sun during the day to maximize the solar radiation it receives.

WECS - Wind Energy Conversion System. A device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electric energy, including, but not limited to: power lines, transformers, substations, and meteorological towers. The energy may be used on-site or distributed into the electrical grid.

Wind Easement. A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. Required contents of a Wind Easement are defined in Minnesota Statutes Section 500.30.

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

Windmill, Functional. A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located.

Windmill, Ornamental. A non-functional windmill used for decoration.

SECTION 21.2 PROCEDURES.

A. Permit Application for WECS.

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Lyon County Zoning Ordinance and

Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. Letter from the State Agency responsible for size determination of a project, pursuant to Minnesota Statutes, Chapter 216F.011, as amended. Also, Lyon County assumes permitting authority less than 25 MW. Projects larger than 25 MW will be permitted by the Public Utilities Commission.
2. The names and addresses of project applicant.
3. The names and addresses of the project owner. For C-BED projects, must provide percent of ownership for each of the project owners.
4. The legal description and address of the project.
5. A description of the project including: Number, type, total name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.
6. Site layout, including the location of project area boundaries (purchased wind rights), property lines, roads, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
7. Documentation of land ownership or legal control of the property and current land use on the site and surrounding area.
8. Documentation of intent to pursue a Power Purchase Agreement or documentation that the power will be utilized on-site.
9. The latitude and longitude of all WECS and Meteorological towers.
10. 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.
11. Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS.

12. Copies of all permits or documentation that indicates compliance with all other applicable State and Federal Regulatory Standards:
 - A. Uniform Building Code, as amended.
 - B. The National Electrical Code, as amended.
 - C. Federal Aviation Administration (FAA), as amended.
 - D. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.
 - E. Microwave Beam Path Study
 - F. Acoustical Analysis
13. Location of all known Communications Towers within 2 miles of the proposed WECS.
14. Location of all known public or private Airports or Heliports within 5 miles of the proposed WECS.
15. Detailed Decommissioning Plan including how decommissioning costs would be covered. Applicant may be required to establish an escrow account to fund decommissioning costs.
16. Description of potential impacts on nearby WECS and wind resources on adjacent properties. A Wake Loss Study may be required if the county determines the proposed project may have a significant impact on nearby WECS.
17. Additional information stated in Minnesota Rules, part 7854.0500 (subpart 1), as amended.
18. Identification of Haul Routes to be utilized for material transportation and construction activities: State, Federal, County and/or Township roads. Must provide written documentation that all haul routes have been approved by each of the road authorities with jurisdiction.
19. Locations and site plans for all temporary, non-residential construction sites and staging areas.

B. Permit application for Solar Energy Systems.

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Lyon County Zoning Ordinance and

Minnesota Statutes Chapter 394, except where noted below. An application to the County for a permit under this section is not complete unless it contains the following:

1. A site plan of existing conditions showing the following:
 - a. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - b. Existing public and private roads, showing widths of the roads and any associated easements.
 - c. Location and size of any abandoned wells, sewage treatment systems and dumps.
 - d. Existing buildings and any impervious surface.
 - e. Topography at 2' intervals (or less) and source of contour interval. 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 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 district.
 - l. In the shoreland district, the ordinary high water level and the highest known water level.
 - m. In the shoreland district, the toe and top of any bluffs within the project boundaries.
 - n. Mapped soils according to the Lyon County Soil Survey.
 - o. Surface water drainage patterns.

2. A site plan of proposed conditions showing the following:
 - a. Approximate location and spacing of solar panels.
 - b. Location of access roads.
 - c. Proposed location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.

- d. New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
 - e. Proposed erosion and sediment control measures.
 - f. Proposed stormwater management measures.
 - g. Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).
3. Proposed specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks, if known.
 4. A description of the method of connecting the array to a building or substation.
 5. A decommissioning plan ensuring that facilities are properly removed in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of the Lyon County Solid Waste Ordinance; or successor ordinance. If necessary, the Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

SECTION 21.3 DISTRICT REGULATIONS.

A. Permitted and Conditional Uses for WECS.

WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

District	Micro-WECS	Non- Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
1. Agriculture	P	P	C	P
2. Suburban Residence	P	C	NP	C
3. Urban Expansion	P	C	C	C
4. Highway Commercial	P	C	C	C
5. Rural Residential	P	C	C	P
6. Unincorporated Village	P	C	NP	NP

7. Shoreland	P	C	NP	NP
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B. Permitted and Conditional Uses for Solar Energy Systems.

Solar Farms will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below (P=Permitted, C=Conditionally Permitted, NP=Not Permitted):

District	Small Solar Energy System	Midsize Solar Energy System	Large Solar Energy System
1. Agriculture	P	P	C
2. Suburban Residence	P	C	C
3. Urban Expansion	P	C	C
4. Highway Commercial	P	C	C
5. Rural Residential	P	C	C
6. Unincorporated Village	P	C	NP
7. Shoreland	P	C	NP

SECTION 21.4 SETBACKS FOR WECS.

All towers shall adhere to the setbacks established in the following table.

A. Setbacks for WECS.

	Micro- WECS	Non-Commercial < 100 kW	Commercial ≥ 100 kW	Meteorological Tower
1. Project Boundary/ Property lines	An amount equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet. Any guy wires must meet the setbacks of the District.
2. Dwelling(s), other than project owners	Not applicable if setbacks are met.	500 feet and/or sufficient distance to meet state noise standards, whichever is greater.	1000 feet and/or sufficient distance to meet state noise standards, whichever is greater.	1.1 times the total height. Minimum 250 feet.
3. Noise Standard	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	N/A

4. Road Rights-of-Way	1.1 times the total height.	1.1 times the total height.	1.1 times the total height.	1.1 times the total height. Minimum 250 feet. Any guy wires must meet the setbacks of the District.
5. Other Rights-of-Way (Recreational Trails, power lines, Etc.)	1.1 times the total height.	1.1 times the total height.	1.1 times the Total height.	1.1 times the total height. Minimum 250 feet.
6. Public conservation lands managed as grasslands	An amount equal equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet.
7. Wetlands, WCA Types III, IV and V	An amount equal equal to the height of the structure.	1.1 times the total height.	3 RD on east-west axis and 5 RD on north-south axis.	1.1 times the total height. Minimum 250 feet.
8. Other Structures	1.1 times the total height.	1.1 times the total height.	1.1 times the total height.	1.1 times the total height. Minimum 250 feet.
9. Other Existing WECS and Internal Turbine spacing	N/A	3 RD on east-west axis, and 5 RD on north-south axis.	3 RD on east-west axis, and 5 RD on north-south axis.	N/A

B. Additional setback requirements for WECS.

1. Based on their total name plate generating capacity, C-BED Projects are considered Micro-WECS, Non-Commercial WECS or Commercial WECS as defined in this Ordinance, and will follow the setbacks established for the category for which they fall under.
2. Native Prairie – Turbines and associated facilities shall not be placed in native prairie unless approved in a native prairie protection plan. Native prairie protection plan shall be submitted if native prairie is present. The permittee shall, with the advice of the DNR and any others selected by the permittee, prepare a prairie protection and management plan and submit it to the County and DNR Commissioner 60 days prior to the start of construction.
3. Sand and Gravel Operations – Turbines, towers or associated facilities should not be located in active sand and gravel operations.
4. Aviation (public and private airports) – No turbines, towers or associated facilities shall be located so as to create an obstruction to navigable airspace of public and private airports in Lyon County. Setbacks or other limitations determined in accordance with Mn/DOT Department of Aviation and Federal Aviation Administration (FAA) requirements.

5. Setbacks – All Essential Service Lines and Structures must meet the setback requirements of Article 18, Section 18.8 of the Lyon County Zoning Ordinance.
6. The setback for new dwellings shall be reciprocal in that no dwelling shall be constructed within the same setback as a new turbine would need to meet to an existing dwelling.
7. No wind turbines allowed within Shoreland Districts, except Micro Towers may be allowed by permission of the Lyon County Planning Commission through the conditional use process and only in areas where electricity is not presently available.

SECTION 21.5 REQUIREMENTS AND STANDARDS FOR WECS.

A. Safety Design Standards.

1. Engineering Certification. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
2. Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance between their lowest point and the ground.
3. Warnings.
 - a. For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.
 - b. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Aviation warning shall be painted on meteorological towers of less than 200 feet.

- c. All WECS and Meteorological towers more than 100 feet in overall height shall be required to have safety lighting.

B. Height Standards.

1. Total height. Non-Commercial WECS shall have a total height of less than 200 feet.
2. In those districts where meteorological towers are a permitted use, meteorological towers of less than 200 feet shall be exempt from Conditional Use process established for structures exceeding height requirements

C. Tower Configuration Standards.

1. All WECS must use self-supporting towers. The base for such towers shall be designed to anchor and support the tower for the site and 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.
2. Meteorological towers may be guyed.
3. Color and Finish. All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
4. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night- time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided.

D. Other Applicable Standards.

1. Other Signage. All signage on site shall comply with Article 16 of the Lyon County Zoning Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator, of the WECS.

2. All feeder lines subject to Lyon County authority equal to or less than 34.5 kV in capacity shall be buried and located on the back side of the right-of-way. Feeder lines installed as part of a WECS shall not be considered an essential service. If not buried, must apply for a variance and shall follow Article 26 of the Zoning Ordinance for variance procedures.
3. Waste Disposal. Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
4. Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after 1 year without energy production, unless a plan is developed and submitted to the Lyon County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four feet below ground level within 90 days of the discontinuation of use.
5. All WECS projects shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use, whichever occurs sooner. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The plan shall also address road maintenance during and after completion of the decommissioning.
6. Orderly Development. Upon issuance of a conditional use permit, all WECS shall notify the Minnesota Public Utilities Commission (PUC) Energy Facilities Permitting program Staff of the project location and details on the survey form specified by the PUC.
7. Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.

8. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
9. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

E. Interference.

1. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

F. Avoidance and Mitigation of damages to Public Infrastructure.

1. Roads. Applicants shall:
 - a. Identify all public roads to be used for the purpose of transporting WECS, substation parts, materials, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
 - b. Contact the road authority for road closures, road signage removals, road signage re-locating, road signage restoring, moving permits, culverts, access/driveway permits, tile outlet permits, widening road intersections, standard utility permits and any other road activities that may require permits.
 - c. Contact the Lyon County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.
 - d. Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction.
 - e. Provide a Performance Bond to be held by the county until the Township and/or County road authority(ies) have provided the County Auditor with a written release that all haul routes within their

jurisdiction in Lyon County have been returned to pre-construction condition.

2. Drainage System. The Applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation, maintenance, or decommissioning.

G. Pre-Construction Meeting.

1. Applicant will conduct a Pre-Construction meeting prior to construction commencement with a written notice sent the following individuals a minimum of one week prior to said meeting:

- A. Township Chairman
- B. Lyon County Highway Engineer
- C. Lyon County Sheriff
- D. Lyon County Zoning Administrator
- E. Area Hydrologist, Minnesota Department of Natural Resources
- F. Minnesota Pollution Control Agency
- G. United States Farm Service Agency
- H. Lyon County Soil & Water Conservation District
- I. US Fish & Wildlife Service
- J. Minnesota State Historical Society
- K. Two Planning Commission Members: Chair and County Board Representative
- L. Mn/DOT

SECTION 21. 6 SETBACKS AND STANDARDS FOR SOLAR ENERGY SYSTEMS.

A. Setbacks for Solar Energy System.

(Measured from the named item to a solar panel or racking system)

	Small	Midsized	Large
1. Neighboring Property Lines (Property lines within project boundary are exempt)	25'	25'	25'
2. Dwelling(s), other than project owners	50'	100'	200'
3. Road Right of Way	25'	25'	25'
4. Public Conservation Lands	25'	25'	200'

B. Standards for Large Solar Farms.

1. Solar farms are the primary land use for the parcel on which the array is located and are distinguished from solar arrays that are a secondary or accessory use. Solar farms are composed of multiple solar panels on multiple mounting systems (poles or racks), and generally have an Alternating Current (AC) rated capacity greater than 1 MW.
2. Stormwater Management and Erosion and Sediment Control shall meet the requirements of the MPCA Construction Stormwater Permit requirements.
3. 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.
4. 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.
5. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground, to the extent practicable.

C. Standards for Small and Midsize Solar Energy Systems.

Solar energy systems are a permitted accessory use in all zoning districts, subject to the following standards:

1. Accessory Building Limit. Solar systems, either roof or ground-mounted, do not count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per residential lot or the coverage limits, as set forth in the Lyon County Zoning Ordinance.
2. Height. Active solar systems are subject to the following height requirements:
 - a. Building- or roof- mounted solar systems shall not exceed the maximum allowed height 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.

- b. Ground- or pole-mounted solar systems shall not exceed 15 feet in height when oriented at maximum tilt.
3. Location within Lot. Solar systems must meet the accessory structure setback for the zoning district.
 - a. Roof-mounted Solar Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - b. Ground-mounted Solar Systems. Ground-mounted solar energy systems may not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
 - c. Large Ground-mounted Systems. Ground-mounted solar systems that result in the creation of one or more acres of impervious surface, must comply with the MPCA Construction Stormwater Permit Requirements.
4. Maximum Coverage. Roof or building mounted solar systems, excluding building-integrated systems, shall not cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The total collector surface area of pole or ground mount systems in non-agricultural district shall not exceed one percent of the lot area.
5. Approved Solar Components. Electric solar system components must have a Underwriters Laboratory (UL) listing.
6. Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electric Code.

7. 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.

ARTICLE 22. CONDITIONAL USES

SECTION 22.1 CONDITIONAL USES.

Within the unincorporated area of the county, all uses except permitted uses shall be required to obtain a Conditional Use Permit approved by the County Board.

SECTION 22.2 PROCEDURE.

The following procedure shall be followed for Conditional Use Permits:

A. Application.

1. The applicant requests the proper form for a Conditional Use Permit from the Zoning Administrator. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Ordinance, including but not limited to:
 - (a) Legal description of the property.
 - (b) Site plan drawn at scale showing parcel and building dimensions.
 - (c) Location of all buildings and their square footage.
 - (d) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
 - (e) Landscaping and screening plans.
 - (f) Drainage plan.
 - (g) Sanitary sewer and water plan with estimated use per day.
 - (h) Soil type.
 - (i) Such other information as is necessary and reasonable to adequately review the request.

B. Application Processing.

1. Upon receipt in proper form of the application and other required material, the Zoning Administrator shall forward a copy of the completed application and attachments to the Planning Commission prior to hearing.

2. The Zoning Administrator shall place the application for a conditional use permit on the agenda for a public hearing at the next meeting of the Planning Commission.

If the written request does not contain all required information, the sixty (60) day limit starts over only if the applicant is sent notice within ten business days of receipt of the request telling the requester what information is missing.

3. The Zoning Administrator shall give proper notice of the public hearing in the following manner:

- (a) Notice of the time, place and purpose of the public hearing shall be given by publication in the official newspaper of the county at least ten (10) days before the hearing.

- (b) Written notice of the time, place and purpose of the public hearing shall be mailed at least ten (10) days but not more than thirty (30) days prior to the hearing to the following:

- (1) All property owners of record within one-quarter (1/4) mile of the affected property, or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, in unincorporated areas.

- (2) When the subject site adjoins an incorporated area, all property owners of record within 500 feet of the affected property within the incorporated areas.

- (3) The affected board of township supervisors and the city council of any municipality within two (2) miles of the affected property.

- (4) Written notice of the time, place and purpose of the public hearing shall be provided to the Commissioner of the Department of Natural Resources at least ten (10) days prior to the hearing if the affected property is within a Shoreland or Floodplain area.

- (5) Feedlot Notification - All property owners of record within the required setback area outlined in Section 19.6B and 19.7A, or to the nearest ten (10) properties nearest to the feedlot, whichever would provide notice to the greatest number of owners, in unincorporated areas.

(For feedlots within a mile of the municipality, notification will be sent to all property owners of record from the feedlot site to the incorporated limit of the municipality along with those property owners outlined in this section.)

- (c) For the purpose of giving mailed notice, the current records on file in the Office of the County Treasurer shall be deemed sufficient. The failure of any property owner to receive written notice or any defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notification requirements has been made. Property owners of record shall not include recorded Contract for Deed Vendors.
- (d) A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.
- (e) The Planning Commission or delegation thereof may view the property being considered for a conditional use permit prior to the public hearing.

C. Public Hearing.

- 1. The Planning Commission shall hold at least one (1) public hearing on the proposed conditional use permit.
- 2. The applicant or his/her representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
- 3. The Planning Commission and appropriate county staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- 4. The applicant for a conditional use permit, which in the opinion of the Planning Commission, may result in a material adverse effect of the environment, may be requested by the Planning Commission to demonstrate the nature and extent of such effects.
- 5. An accurate record of all testimony shall be kept by the Secretary of the Planning Commission. This record shall include the names of all persons testifying or otherwise participating in the hearing.

D. Criteria for Granting Conditional Use Permits.

1. Conditional uses may be approved, by the County Board, upon a showing by the applicant that the use or development conforms to the comprehensive land use plan of the County and is compatible with the existing neighborhood. In addition, the County Board may consider the following:
 - (a) Whether the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding properties.
 - (b) Whether adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
 - (c) Whether adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.
 - (d) Whether adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lights signs and other lights in such a manner that no disturbance to neighboring properties will result.
 - (e) Whether there is a demonstrated need for such use.
 - (f) Whether the use will adversely affect the public health, safety or general welfare.

2. Additional Conditions. In permitting a new conditional use permit or alteration upon review of an existing conditional use permit, the Planning Commission may recommend and County Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the County Board considers necessary to protect the interests of the surrounding area or the County as a whole. These conditions may include but are not limited to the following:
 - (a) Increasing the required lot size or yard dimension.
 - (b) Limiting the height, size, location, and exterior materials of buildings.
 - (c) Controlling the location and number of vehicle access points, and standards for access and egress for the site.
 - (d) Increasing the number of required off-street parking spaces.

- (e) Limiting the number, size, location or lighting of signs.
- (f) Requiring stormwater management, fencing, screening, landscaping, erosion control or other facilities to protect adjacent or nearby property.
- (g) Designating sites for open space.
- (h) Limiting outside storage areas.
- (i) Limiting the number of vehicles and/or employees associated with a business operation.
- (j) Periodic inspections of the premises and use as authorized by the County or Township.

E. Approval, Disapproval or Modification.

1. The Planning Commission shall make its decision upon the application and forward its recommendations to the County Board. In reporting its recommendations to the County Board, the Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantees deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the County Board shall make a decision upon the application for a Conditional Use Permit.
 - (a) Decision and response must be made within sixty (60) days of initial application. Failure of a decision within the timeline is approval of the request.
 - (b) Timeline may be extended before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.

See also Minnesota Statutes, section 15.99, as amended Time Deadline for Agency Action.
2. All decisions of the County Board in considering requests for Conditional Use Permits as provided by this Ordinance shall be final. Any aggrieved person or persons, or any department, board, or commission of the jurisdiction or of the state shall have the right to appeal. Applicants shall appeal the decision directly to the Minnesota Court of Appeals in

accordance with law. Non-applicants shall appeal within thirty (30) days after delivery of the County Board's decision. Notice of the County Board's decision is to be delivered to the applicant and any other person who requests notice and provides the Zoning Administrator with his/her name and address. Delivery of notice shall be complete upon mailing by first class, United States mail. Any person may waive his/her right to notice as provided herein.

- F. Denial and Reconsideration. Whenever an application for a conditional use permit has been considered and denied by the County Board, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or County Board for at least six (6) months from the date of its denial.
- G. Compliance. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such permit.
- H. Review. A periodic review of the permit and its conditions shall be maintained. All conditions within a conditional use permit shall be complied within sixty (60) days unless otherwise specified.
- I. The permit shall be issued for a particular use on specific parcel. A conditional use permit may be transferred administratively to a new person or firm if the use is not changed and the conditions remain the same. Any changes in the conditions of the permit or the location shall be administered in the same manner as required for new permits.
- J. Revocation. A violation of any condition set forth in a Conditional Use Permit shall be a violation of this Ordinance and may automatically terminate the permit.
- K. Expiration and Discontinuance. A conditional use permit shall become void one (1) year from the date of approval by the County Board if no construction has begun or the use has not been established. For the purposes of this provision, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction. A conditional use permit shall become void if the use is discontinued for a period of one (1) year.
- L. Recording.
 - 1. A certified copy of any Conditional Use Permit shall be filed with the County Recorder for record. The Conditional Use Permit shall include the legal description of the property involved.

2. The Zoning Administrator shall be responsible for recording with the County Recorder, any Conditional Use Permit Issued by the County Board.
3. If a Conditional Use Permit is revoked, a motion of the County Board of said action shall be filed with the County Recorder for record.

M. Fees.

1. All applications for a Conditional Use Permit shall be accompanied by a flat fee set by resolution of the County Board.
2. Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering, recording and planning consultant assistance necessary for proper review and consultation to assist the Planning Commission and County Board in its decision-making.

SECTION 22.3 CONDITIONAL USE PERMITS WITHIN FLOODPLAINS AND SHORELAND AREAS.

A. Floodplain. Conditional uses allowable within floodplain areas shall be subject to the review and approval procedures and conditions for review of conditional uses established county-wide permissible under Article 6. The same procedure shall be followed as stated in Section 22.2.A.-L.

1. Procedures to be followed by the Planning Commission in Passing on Conditional Use Permit Applications Within all Floodplain Districts.
 - (a) Require the applicant to furnish the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:
 - (1) Plans 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.
 - (2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

- (b) 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.
 - (c) Based upon the technical evaluation of the designated engineer or expert, the Board of Adjustment shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
2. Factors upon which the decision of the Planning Commission shall be based. In passing upon Conditional Use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:
- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (e) The importance of the services provided by the proposed facility to the County.
 - (f) The requirements of the facility for a waterfront location.
 - (g) The availability of alternative locations not subject to flooding for the proposed use.
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - (l) Such other factors which are relevant to the purposes of this Ordinance.
3. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- (a) Modification of waste treatment and water supply facilities.
 - (b) Limitations on period of use, occupancy, and operation.
 - (c) Imposition of operational controls, sureties, and deed restrictions.
 - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (e) Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
4. A copy of all decisions granting a Conditional Use Permit within any designated Floodplain area shall be forwarded to the Commissioner of Natural Resources within ten (10) days after such decision.
5. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Article 29.
- B. Shoreland. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established county-wide. The same procedure shall be followed as stated in Section 22.2.A.-M. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - (a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - (b) The visibility of structures and other facilities as viewed from public waters is limited;
 - (c) The site is adequate for water supply and on-site sewage treatment; and
 - (d) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
2. Conditions attached to conditional use permits. The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits, as it deems necessary to fulfill the purposes of the Shoreland Requirements. Such conditions may include, but are not limited to, the following:
 - (a) Increased setbacks from the ordinary high water level;
 - (b) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - (c) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
3. A copy of all decisions granting any Conditional Use Permit within any designated Shoreland area shall be forwarded to the Department of Natural Resources within ten (10) days after such decision.
4. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Article 29.

ARTICLE 23. NON-CONFORMING STRUCTURES, USES AND LOTS

SECTION 23.1 PURPOSE.

It is the purpose of this Ordinance to provide for the regulation of non-conforming lots, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming structures, uses and lots will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses that are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming lots, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Ordinance that all non-conforming uses shall be eventually brought into conformity.

SECTION 23.2 NON-CONFORMING STRUCTURES AND USES IN FLOODPLAIN AND SHORELAND DISTRICTS.

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of Article 6 (Floodplain) but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
1. No such use shall be expanded, changed, enlarged, or altered in a way, which increases its nonconformity.
 2. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Section 23.2.A.3. below.
 3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the assessed value of the structure unless the conditions of this Article are satisfied. The cost of all structural alterations and additions constructed since the adoption of the County's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Article 6, Section 6.4 or 6.5 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months. A nonconforming feedlot operation shall not be considered discontinued unless the fences and feed line bunks have been disassembled or removed.
 5. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value at the time of destruction, 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 Article 6, Section 6.4, 6.5 or 6.6 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or Floodplain District, respectively.
- B. All legally established non-conformities which were lawful before the passage or amendment of Article 17 (Shoreland District) may continue, but they will be managed according to applicable state statutes and other regulations of this county for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:
1. Construction on nonconforming lots of record.
 - (a) Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the Article 17, Section 17.6A of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.

- (b) A variance from setback requirements must be obtained before any use permit or sewage treatment system permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- (c) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Article 17, Section 17.6A of this Ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Article 17, Section 17.6A of this Ordinance as much as possible.

2. Additions/expansions to nonconforming structures.

- (a) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Article 17, Section 17.6 of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Article 26, Section 26.5.
- (b) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - (1) The structure existed on the date the structure setbacks were established;
 - (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - (4) The deck is constructed primarily of wood or material with wood appearance and strength, and is not roofed or screened.

SECTION 23.3 NON-COMPLIANT INDIVIDUAL SEWAGE TREATMENT SYSTEMS.

All individual sewage treatment systems existing on the effective date of this Ordinance and located within the unincorporated areas of Lyon County which do not comply with the performance standards of Minnesota Rules chapter 7080, as amended, and this Ordinance shall be deemed noncompliant.

- A. All noncompliant systems shall be upgraded, replaced, or repaired, or its use shall be discontinued to comply with the performance standards of this Ordinance within five (5) years of a notification that the system is non-compliant unless the noncompliant system poses an imminent threat to public health or safety. Said systems shall follow the requirements of Section 23.3.B.
- B. Any non complying system shall be corrected to comply with the performance standards of Minnesota Rules chapter 7080, as amended, within sixty (60) days, or by the subsequent June 1st, from date of proper notification if said system poses an imminent threat to public health or safety including, but not limited to, point source discharging directly into a body of water or if the effluent from said system can run directly into a body of water, tile line, drainage ditch or other water resource.
- C. If any existing septic tank or pump tank is in compliance with all other requirements of this Ordinance, a deficiency in setback requirements from a building shall not be considered noncompliant.

SECTION 23.4 NON-CONFORMING SIGNS.

- A. Business signs on the premises of a non-conforming building or use may be continued, but such signs shall not be increased in number, areas, height or illumination. New signs not to exceed thirty-two (32) square feet in aggregate sign area may be erected only upon complete removal of all other signs existing at the time of the adoption of this Ordinance. Such signs may be illuminated, but no flashing, rotating or moving signs shall be permitted.
- B. No sign erected before the passage of this Ordinance shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this Ordinance.

SECTION 23.5 NON-CONFORMING SALVAGE YARDS.

Any non-conforming salvage yard may continue as a non-conforming use if it is completely enclosed within a building or completely screened by a fence, planting or berm of such height as to screen completely the operations of the junkyard. Plans of such a building or device shall be approved by the Planning Commission and the County Board before it is erected or put into place.

SECTION 23.6 DISCONTINUANCE.

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

SECTION 23.7 ALTERATIONS.

The lawful use of a building exists at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

SECTION 23.8 RESIDENTIAL ALTERATIONS.

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

SECTION 23.9 RESTORATION.

No building which has been damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty (50) percent of its value shall be restored, except in conformity with the regulations of this Ordinance.

SECTION 23.10 NORMAL MAINTENANCE.

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

SECTION 23.11 NON-CONFORMING LOTS.

- A. Lots of Record. All lots, parcels 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 Lot of Record.
- B. A lot of record which does not conform with the lot area or lot width requirements of the applicable primary or overlay district shall be legally a buildable lot provided:
 - 1. The lot has been in separate ownership from abutting lands at all times since it became non-conforming;
 - 2. The lot was created compliant to official controls in effect at the time;
 - 3. The use is permitted in the applicable zoning district;
 - 4. The applicable setback requirements of this Ordinance are met; and
 - 5. The sewage treatment standards contained in this Ordinance are met.
- C. The addition of land to an existing lot of record which does not conform with the lot area or lot width requirements shall be permitted provided such addition shall not cause the creation of an additional parcel or parcels. Any lot with such an addition shall still be considered a lot of record for the purposes of this Ordinance.

- D. A lot of record which conforms with the lot area and lot width requirements of the applicable primary or overlay district, or is otherwise buildable pursuant to 23.11.B, but does not conform to the residential density requirements of the applicable primary or overlay district, shall be legally a buildable lot provided:
1. The lot has been in separate ownership from abutting lands at all times since it became non-conforming;
 2. The lot was created compliant with density standards, if any, in effect at the time;
 3. The use is permitted in the applicable zoning district;
 4. The applicable setback requirements of this Ordinance are met;
 5. The sewage treatment standards contained in this Ordinance are met; and
 6. The lot is ten (10) acres or less.
- E. Where, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the lot area, lot width or residential density requirements of the applicable primary or overlay zoning district, the lots shall be combined for zoning purposes into one or more lots, each meeting the minimum district requirements to the extent possible. Husband and wife shall be considered same ownership. Such combination or consolidation shall be in accordance with Section 6.4 of the Lyon County Subdivision Ordinance.

ARTICLE 24. SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS)

SECTION 24.1 PURPOSE, INTENT, AUTHORITY, AND EFFECTIVE DATE

- A. **Purpose.** The purpose of this Article is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances.
- B. **Intent.** It is intended by the County that this Article will promote the following:
1. The protection of lakes, rivers and streams, wetlands, and groundwater in Lyon County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
 2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
 3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination of natural resources; and if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
 4. The appropriate utilization of privy vaults, holding tanks, and other non-water carried sewage collection and storage facilities.
 5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.
- C. **Authority.** This Article is adopted pursuant to Minnesota Statutes, section 115.55; Minnesota Statutes, sections 145A.01 through 145A.08; Minnesota Statutes, section 375.51; or successor statutes, and Minnesota Rules, chapter 7080, chapter 7081, chapter 7082;, or successor rules.
- D. **Effective Date.** The provisions set forth in this Article shall become effective after its passage, publication, and recording as provided by law.

SECTION 24.2 DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article or in Article 4 of this Ordinance, terms used in this Article shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Article, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

Agency. The Minnesota Pollution Control Agency.

As-builts. Drawings and documentation specifying the final in-place location, elevation, size and type of all system components.

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

Authorized Representative. An employee of the Lyon County Planning and Zoning Office who is licensed as a “Qualified Employee”.

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

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

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

Class V Injection Well. A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people or any SSTS that receives any amount of industrial or commercial wastewater.

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

Commissioner. The commissioner of the Minnesota Pollution Control Agency.

Compliance Inspection. An evaluation, investigation, inspection, or other such process for the purpose of issuing a certificate of compliance or notice of noncompliance.

Department. The Lyon County Planning and Zoning Office.

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

EPA. The United States Environmental Protection Agency.

Existing Systems. Systems that have been previously inspected and approved by the Department during installation. In addition, all operating systems installed before the adoption of a local permitting and inspection program are considered existing systems.

Failure to Protect Groundwater. At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in Minnesota Rules, chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with Minnesota Rules, chapter 7080.2500.

Greywater. Sewage that does not contain toilet wastes.

Greywater System. A system that receives, treats, and disperses only greywater or other similar system as designated by the commissioner.

Groundwater. Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Holding Tank. A tank for storage of sewage until it can be transported to a point of treatment and dispersal. Holding tanks are considered a septic system tank under Minnesota Statutes, section 115.55.

Imminent Threat to Public Health and Safety (ITPH). At a minimum, a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers.

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

LSTS. A large subsurface sewage treatment system having a design flow of 10,001 gallons per day or greater.

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

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

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

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

MSTS. A mid-sized subsurface sewage treatment system under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,001 gallons per day to a maximum of 10,000 gallons per day.

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

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

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

Pit. A hole dug with a backhoe, or an auger no less than 2 inches in diameter, used for soil verification for the purpose of designing subsurface sewage treatment systems.

Pressure Distribution. A network of distribution pipes in which effluent is forced through orifices under pressure.

Privy. An aboveground structure with an underground cavity meeting the requirements of Minnesota Rules, chapter 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a nondwelling structure containing a toilet waste treatment device.

Pump Tank. A tank or separate compartment following the sewage tank that serves as a reservoir for a pump. A separate tank used as a pump tank is considered a septic system tank under Minnesota Statutes, section 115.55, subdivision 1, paragraph (o).

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

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

Redoximorphic Features.

- (a) A color pattern in soil, formed by oxidation and reduction of iron or manganese in saturated soil coupled with their removal, translocation, or accrual, which results in the loss (depletion) or gain (concentration) of mineral compounds compared to the matrix color; or
- (b) A soil matrix color controlled by the presence of ferrous iron. Redoximorphic features are described in Minnesota Rules, chapter 7080.1720, subpart 5, item E.

SDS. State Disposal System permit from MPCA.

Septage. Solids and liquids removed from an SSTS and includes solids and liquids from cesspools, seepage pits, other pits, or similar systems or devices that receive sewage. Septage also includes solids and liquids that are removed from portable, incinerating, composting, holding, or other toilets.

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

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

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

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

Treatment Level. Treatment system performance levels defined in Minnesota Rules, chapter 7083.4030, Table III as now constituted and from time to time amended.

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

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

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

Type IV System. A custom designed IST having an approved pretreatment device and incorporating pressure distribution and dosing.

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

Vertical Separation. The vertical measurement of unsaturated soil or sand between the bottom of the distribution medium and the periodically saturated soil level or bedrock.

Watertight. Constructed so that no liquid can get into or out of a device except through designed inlets and outlets.

SECTION 24.3 GENERAL PROVISIONS

- A. **Scope.** This Article regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and

cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS sited, designed, installed, operated, and maintained in accordance with the provisions of this Article or by a system that has been permitted by the MPCA.

- B. **Jurisdiction.** The jurisdiction of this Article shall include all lands of the County except for incorporated areas that administer a Subsurface Sewage Treatment System (SSTS) program by ordinance within their incorporated jurisdiction, which is at least as strict as this Article and has been approved by the MPCA. The Department shall keep a current list of local jurisdictions within the County administering a SSTS program.

SECTION 24.4 ADMINISTRATION

- A. **County Administration.** The Department shall administer the SSTS program and all provisions of this Article. At appropriate times, the County shall review, revise, and update this Article as necessary. The County shall employ qualified and appropriately licensed professionals to administer and operate the SSTS program.
- B. **State of Minnesota.** Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a State Disposal System (SDS) Permit from MPCA. For any SSTS that has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, a SDS Permit is required. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Article.
- C. **Cities and Townships.** Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Article. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Article.
- D. **Validity.** Should any section or provisions of this Article be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Article as a whole or any part thereof other than the part so declared to be invalid.
- E. **Liability.** Any liability or responsibility shall not be imposed upon the Department or MPCA or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage resulting from the defective construction, operation, or abandonment of any SSTS regulated under this article by reason of standards, requirements, or inspections authorized hereunder.

SECTION 24.5 GENERAL REQUIREMENTS

A. Retroactive

1. All SSTS. Except as set forth in Section 24.5.A.2. of this Article, all provisions of this Article shall apply to any SSTS regardless of the date it was originally permitted.
2. Existing SSTS Permits. Unexpired permits which were issued prior to the effective date of this article shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership, whichever is earlier.
3. SSTS on Lots Created Before January 23, 1996. All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, or at-grade systems and/or rapidly permeable soils as described in Minnesota Rules, chapters 7080. 2200 through 7080.2230, or site conditions described in 7081.0270, Subp. 3 through 7.

B. ▲ Construction Activity

1. No construction or repair requiring excavation of soil after October 31st or before April 15th shall be allowed in any portion of the drainfield or soil absorption system, without the permission of a Qualified Employee of the Department.

C. Upgrade, Repair, Replacement, and Abandonment

1. SSTS Capacity Expansions. Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Article at the time of the expansion.
2. ▲ Additions to Dwellings. The owner must submit a valid Certificate of Compliance and/or obtain a valid SSTS Septic Permit when a land use permit is issued for a bedroom addition to an existing dwelling.
3. ▲ Failure to Protect Groundwater. An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within 12 months of receipt of a Notice of Noncompliance.
4. ▲ Imminent Threat to Public Health or Safety (ITPH). An SSTS that is

determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, chapter 7080.1500, Subp.4A shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within 10 months of receipt of a Notice of Noncompliance.

5. Abandonment. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rules, chapter 7080.2500 and Section 24.7.D of this Article.

D. SSTS in Floodplains

1. SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, chapter 7080.2270 and all relevant local requirements are met.

E. Class V Injection Wells

1. All owners of SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency (EPA) as described in 40 CFR 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

F. SSTS Practitioner Licensing

1. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, chapter 7083 except as exempted in 7083.0700.
2. ▲Property owners exempted from SSTS licensing requirements under Minnesota Rules, chapter 7083.0700, must comply with the following additional provisions:
 - (a) A property owner must follow all applicable county, state, and federal requirements for permitting and construction of an SSTS.
 - (b) The property owner shall provide a signed agreement to the Department which indemnifies and saves the County holding it harmless from all losses, damages, costs, and charges that may be

incurred by the County due to failure of the permittee to conform to and comply with the provisions of this article.

- (c) The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department.

G. Prohibitions

1. **Occupancy or Use of a Building without a Compliant SSTS.** It is unlawful for any person to maintain, occupy, or use any building designed to discharge domestic waste and greywater that disposes of wastewater in a manner that does not comply with the provisions of this Article.
2. **Sewage Discharge to Ground Surface or Surface Water.** It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Article that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program administered by the MPCA.
3. **Sewage Discharge to a Well or Boring.** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, chapter 4725.2050, or any other excavation in the ground that is not in compliance with this article.
4. **Discharge of Hazardous or Harmful Materials.** It is unlawful for any person to discharge into any treatment system regulated under this Article any hazardous or harmful material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

SECTION 24.6 SSTS STANDARDS

A. **Standards Adopted by Reference.** The County hereby adopts by reference Minnesota Rules, chapters 7080 and 7081 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minnesota Statutes Chapter 115.55.

B. Amendments to the Adopted Standards

1. Determination of Hydraulic Loading Rate and SSTS Sizing

- (a) Tables IX from Minnesota Rules, chapter 7080.2150, Subpart 3(E) entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions” and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Article.
 - (b) ▲ The Department will make the determination whether a backhoe pit will be required for soil verification.
2. Compliance Criteria for Existing SSTS.
- (a) SSTS built before April 1, 1996 outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.
 - (b) ▲ When determining vertical separation distance for existing at-grade or mound systems, a variance reduction of up to five (5) inches will be allowed to account for settling of sand or soil, normal variation of separation distance measurements, and interpretation of limiting layer conditions.
 - (c) ▲ The vertical separation measurement for (a) and (b) above shall be made outside the area of system influence but in an area of similar soil.
3. ▲ Holding Tanks
- (a) Holding tanks may be allowed for other structures (examples, storage buildings and shops) with limited water use:
 - (1) The holding tank shall be installed, operated, maintained, and monitored in accordance with Minnesota Rules and this Article.
 - (2) The owner shall maintain a valid contract with a licensed maintenance business to pump liquids and solids from the holding tank and transport septage to a licensed treatment facility or land apply septage as permitted under this Article prior to overflow or any discharge.

- (b) The holding tank shall be regularly pumped on a schedule agreed upon with the Department. This schedule will be based on the tank's alarm system.

C. Variances

1. Variance Requests. A property owner may request a variance from the standards as specified in this Article pursuant to Article 26 of this Ordinance.
2. Affected Agency. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency.
3. Variance Considerations.
 - (a) The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, structures, or buildings. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Lyon County Comprehensive Plan pursuant to Article 26 of this Article.
 - (b) The Board of Adjustments shall consider applicable rules including but not limited to Minnesota rules, chapters 7080, 7081 and 7082.
 - (c) Wells. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.
 - (d) In granting a request for a variance, the Board of Adjustment may attach such conditions as it deems necessary to conform to the purpose and intent of this Article.
 - (e) Any variance granted shall automatically expire if the system is not installed within 18 months of the granting of the variance.

SECTION 24.7 SSTS PERMITTING

- A. **Septic Permit Required.** It is unlawful for any person to construct, install, modify, replace, or operate a SSTS without the appropriate septic permit from the Department.
- B. **Septic Permit.** A septic permit shall be obtained by the property owner or an agent of the property owner from the Department prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion

of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Article by an appropriately certified and/or licensed business.

1. **Activities Requiring a Septic Permit.** A septic permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
2. **Activities Not Requiring a Septic Permit.** A septic permit is not required for minor repair or replacement of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
3. **▲Septic Permit Required to Obtain Land Use Permit.** For any new construction, addition or alteration of an existing structure for which a SSTS permit is required, approval and issuance of a valid SSTS Septic Permit must be obtained.
4. **▲Conformance to Prevailing Requirements.** Any activity involving an existing system that requires a Septic Permit, shall require that the entire system be brought into compliance with this Article.
5. **Septic Permit Application Requirements.** Septic Permit applications shall be made on forms provided by the Department and shall include the following information:
 - (a) Name, mailing address, and telephone number of the property owner.
 - (b) Property Identification Number, address, and legal description of the property.
 - (c) Site Evaluation Report as described in Minnesota Rules, chapter 7080.1730
 - (d) Design Report as described in Minnesota Rules, chapter 7080.2430.
 - (e) Management Plan as described in Minnesota Rules, chapter 7082.0600.

- (f) Name, mailing address, telephone number, and SSTS license number of the system designer and system installer.
 - (g) Any other information requested by the Department that is pertinent to the application.
6. Application Review and Response. The Department shall review a septic permit application and supporting documents within 15 business days of the receipt of a complete application.
- (a) Upon satisfaction that the proposed plan and design information conform to the provisions of this Article, the Department shall issue a septic permit authorizing construction of the SSTS as designed.
 - (b) In the event there is a significant change to the approved application, the designer must file an amended application to the Department detailing the changed conditions for review and approval or denial prior to initiating or continuing construction, modification, or operation. The Department shall complete the review of the amended application within 15 business days of its receipt.
 - (c) If the permit application is incomplete or does not meet the requirements of this article, the Department shall deny the application. A written notice of denial shall be provided to the applicant, which must state the reason for the denial.
7. Appeal. The applicant may appeal the Departments decision to deny the Septic Permit pursuant to Article 26, Section 26.3 of this Ordinance.
8. Permit Expiration. The Septic Permit is valid for a period of one year from its date of issue. Satisfactory completion of construction shall be determined following a final inspection by the Department. After the final inspection, a Certificate of Compliance will be issued to the property owner by the Department, if the construction or installation of the system was completed in reasonable conformance with the approved design.
9. Transferability. A Septic Permit shall not be transferred to a new owner. The new owner must apply for a new Septic Permit in accordance with this Article.
10. Suspension or Revocation. The Department may suspend or revoke a Septic Permit issued under this article for any false statements, misrepresentations of facts on which the Septic Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the

location of the system, or otherwise change the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Septic Permit is obtained.

11. Posting. The Septic Permit shall be posted on the property such that the septic permit is visible and available for inspection until construction is completed and certified.

C. OPERATING PERMIT

1. SSTS Requiring an Operating Permit. An Operating Permit shall be required of all owners of new holding tanks or MSTs, or Type IV or V, or any other system deemed by the Department to require operational oversight. Sewage shall not be discharged to a holding tank or MSTs until the Department issues a Certificate of Compliance certifying that the MSTs or holding tank was installed in substantial conformance with the approved design plans, and a valid Operating Permit is issued to the owner.
2. Operating Permit Application Requirements. Application for an Operating Permit shall be made on a form provided by the Department, which shall include the following:
 - (a) Name, mailing address, and telephone number of the property owner
 - (b) Property Identification number, address and legal description of the property
 - (c) Septic Permit number and date of issue
 - (d) Final as-built drawings of the treatment system
 - (e) Owners of holding tanks must submit to the Department a copy of a valid executed monitoring and disposal contract with a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, chapter 7082.0100, Subp. 3G. This requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes, chapter 115.56, subdivision 2, paragraph (b), clause (3). The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold.

- (f) Any other information requested by the Department that is pertinent to the application.
3. Department Review and Approval. The Department shall review the design drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness within 15 business days of their receipt. If any deficiencies are identified, the operating permit shall be denied. A written notice of the denial shall be sent by mail to the applicant stating all deficiencies that need to be corrected to the satisfaction of the Department prior to the issuance of an operating permit. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within 10 business days of receipt of the permit application.
4. Operating Permit Terms and Conditions. The Operating Permit shall include the following:
- (a) System operating requirements
 - (b) System monitoring requirements
 - (c) System maintenance requirements including maintenance schedule
 - (d) System Compliance limits and boundaries
 - (e) Reporting schedule
 - (f) Department notification requirements for non-compliant conditions
 - (g) Valid contract between the owner and a licensed maintenance business
 - (h) Disclosure of the location and condition of the additional soil treatment and dispersal system site.
 - (i) Descriptions of acceptable and prohibited discharges.
5. Operating Permit Expiration and Renewal
- (a) Operating Permits shall be valid for the specific term stated on the permit as determined by the Department. An operating permit shall be renewed in conformance with the application requirements as outlined in this Article.

6. Amendments to Existing Operating Permits not Allowed. The Department may not amend an existing permit to reflect changes in this Article until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.
7. Operating Permit Transfers. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with Section 24.7.C of this Article. The Department shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health or safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspection business.
8. Operating Permit Suspension or Revocation. The Department may suspend or revoke any operating permit issued under this article for any false statements or misrepresentations of facts on which the Operating Permit was issued. Notice of suspension or revocation and the reasons for this action taken shall be conveyed in writing to the owner. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 24.7.D of this Article. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
9. Operating Permit Compliance Monitoring
 - (a) Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
 - (b) A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - (1) Owner name, mailing address, and telephone number
 - (2) Property address and legal description
 - (3) Operating Permit and Septic Permit number.

- (4) Average daily flow since last compliance monitoring report
- (5) Description of type of maintenance or repair, and date performed
- (6) Description of samples taken (if required), analytical laboratory used, and results of analyses
- (7) Problems noted with the system and actions proposed or taken to correct them
- (8) A certified statement signed by a licensed inspection business or licensed service provider who performed the work on the system

D. ABANDONMENT CERTIFICATION

1. Purpose. The purpose of the System Abandonment Certification is to ensure that a treatment system no longer in service is abandoned, within a reasonable time following decommissioning, in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.
2. Abandonment Requirements
 - (a) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Article shall be prohibited.
 - (b) Continued use of an existing sewage tank where the tank is to become an integral part of a replacement system or sewage treatment system requires certification of the tank by a licensed inspection business that the tank is watertight and in compliance with all applicable SSTS tank standards.
 - (c) An owner of a SSTS must retain a licensed business to abandon all components of the treatment system whenever the use of a SSTS or any system component is discontinued. System abandonment shall be completed in accordance with Minnesota Rules, chapter 7080.2500. No prior notification to the Department of an owner's intent to abandon a system is necessary.

- (d) A report of abandonment certified by the licensed business shall be submitted to the Department within 30 calendar days of system abandonment. The report shall include:
- (1) Owner's name, mailing address, and telephone number
 - (2) Property address
 - (3) System septic permit and operating permit numbers
 - (4) The reason(s) for abandonment
 - (5) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.
 - (6) A certified statement from a licensed business that the abandonment was completed in accordance with Minnesota Rules, chapter 7080.2500.

SECTION 24.8 MANAGEMENT PLANS

- A. **SSTS Requiring Management Plans.** Management plans are required for all new or replacement SSTs. The management plan shall be submitted to the Department with the septic permit application for review and approval. If the SSTs is modified during construction, the management plan shall be revised and resubmitted to the Department prior to the issuance of a Certificate of Compliance.
- B. **Required Contents of a Management Plan.** Management plans shall include the following:
1. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
 2. Monitoring requirements;
 3. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
 4. Statement that the owner is required to notify the Department when the management plan requirements are not being met;

5. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
 6. Other requirements as determined by the Department.
- C. **Requirements for Existing Systems not Operated under a Management Plan.** Existing SSTS that are not operated under a management plan or operating permit must have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, chapter 7080.2450.

SECTION 24.9. COMPLIANCE MANAGEMENT

- A. **Public Education Outreach.** Programs shall be provided by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.
- B. **Compliance Inspection Program**
1. **Department Responsibility.** It is the responsibility of the Department to perform various SSTS compliance inspections periodically to assure that the requirements of this Article are met.
 2. **General Requirements.**
 - (a) SSTS compliance inspections must be conducted:
 - (1) To ensure compliance with applicable requirements;
 - (2) ▲ To ensure system compliance before issuance of a land use permit for a bedroom addition to an existing dwelling;
 - (3) For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
 - (b) All compliance inspections must be performed and signed by

licensed inspection business or qualified employee certified as an inspector.

- (c) ▲ It is the responsibility of the installer to notify the Department at least 2 business days prior to any permitted work on the SSTS. The installer shall confirm the inspection time with the Department the morning of the business day of the scheduled inspection.
- (d) ▲ The installation and construction of the SSTS shall be in accordance with the approved construction permit requirements and design. If any SSTS component is covered before being inspected by the Department, it shall be uncovered upon the direction of the Department. Proposals to alter the design shall be reviewed and approved by the Department prior to construction. An inspection shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per submitted and approved design.
- (e) ▲ If the installer provides proper notice as described above and the Department does not appear for an inspection within two hours after the time set for an inspection, the installer may complete the installation if photographs are taken during each phase of the installation process and are submitted to the Department within 15 days of installation completion.
- (f) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. The Department shall notify the owner of the Department's intent to inspect the SSTS in advance of the intended inspection.
- (g) No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.
- (h) ▲ As-Built drawings shall be submitted to the Department within 15 business days of completion of the work on the SSTS.
- (i) ▲ Neither the issuance of permits, Certificates of Compliance, nor notices of non compliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or non compliance with the provisions of these standards and regulations.

3. New Construction or Replacement

- (a) ▲ Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, chapters 7080 or 7081. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- (b) Certificates of Compliance for new SSTS construction or SSTS replacement, shall remain valid for five (5) years, and shall be issued by the Department certifying that the SSTS system was installed in accordance with the applicable requirements as specified in the approved septic design plans.
- (c) The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- (d) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 business days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 business days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

4. Existing Systems

- (a) Compliance inspections shall be required when any of the following conditions occur:
 - (1) When a septic permit is required to repair, modify, or upgrade an existing system;
 - (2) ▲ Any time there is a bedroom addition to an existing dwelling;
 - (3) Any time there is a change in use of a building or property being served by an existing SSTS which may impact the performance of the system;

- (4) At any time as required by this Article or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction;
- (5) ▲Any time an operating permit is renewed.
- (6) ▲For land transfers that required a Certificate of Real Estate Value (CRV). A Lyon County Sewer Information Data Form must be completed and filed with the Certificate of Real Estate Value (CRV). Said form is valid for 12 months. The compliance inspection report portion of said form need not be completed under the following conditions:
 - a. The land is bare, without buildings.
 - b. The land has buildings, none of which is used as a dwelling or has access to a sewage treatment system. If a buildings site dwelling is restored or reconstructed, the sewage treatment system must be in compliance with the requirements of this Article.
 - c. The building site is abandoned, the dwelling is not in use, and future use within the next twelve (12) months is not contemplated.
 - d. If the property is transferred to a spouse or the value as stated on the Certificate of Real Estate Value (CRV) is less than one thousand dollars (\$1,000.00).
 - e. If a contract for deed is being satisfied that was originally executed before the effective date of the adoption of the Zoning Ordinance.
 - f. Any newly executed contract for deed.
- (b) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
 - (1) A water tightness assessment of all sewage tanks including a leakage report;
 - (2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation

verification report. A vertical separation report shall include verifications by two independent parties which may be a licensed inspection business, a certified inspector, and/or a Qualified Employee. If there is a dispute between the two verifying inspectors, the disputing parties must follow the dispute resolution procedure described in Minnesota Rules, chapter 7082.0700, Subpart 5;

- (3) The presence of sewage backup, surface seepage, or surface discharge, including a hydraulic function report, which states the methods used to make the assessment.
- (c) The certificate of compliance for an existing SSTS system, must include a certified statement by a licensed inspection business, indicating whether the SSTS is in compliance with all applicable requirements. If the SSTS is determined not to be in compliance, a notice of noncompliance must include a statement specifying those requirements with which the SSTS does not comply.
- (d) The certificate of compliance or notice of noncompliance must be submitted to the Department no later than 15 business days after the date the inspection was performed. The Department shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 business days of receipt from the licensed inspection business.
- (e) Certificates of compliance for existing SSTS shall remain valid for five (5) years from the date of issue unless the Department finds evidence of noncompliance.

SECTION 24.10 ENFORCEMENT

A. Violations

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

2. Notice of Violation. The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Article. The notice of violation shall contain:
 - (a) A statement documenting the findings of fact determined through observations, inspections, or investigations;
 - (b) A list of specific violation(s) of this Article.
 - (c) A list of the specific requirements for correction or removal of the specified violation(s);
 - (d) A mandatory time schedule for correction, removal and compliance with this Article.
3. State Notification of Violation. In accordance with state law, the Department shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of a SSTS by a licensed business or certified individual or any septage removal by a licensed maintenance business or a certified maintainer that is performed in violation of the provisions of this Article.

SECTION 24.11 RECORD KEEPING

- A. Current Record. The County shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, and other records or actions relevant to each system.
- B. Annual Report. The Department shall provide an annual report of SSTS permitting activities to MPCA as required by MPCA for the previous calendar year.

▲ Indicates where Lyon County ordinance regulations differ from the adopted standards of 7080 and 7081.

ARTICLE 25. ZONING ADMINISTRATOR/PLANNING COMMISSION

SECTION 25.1 OFFICE AND APPOINTMENT OF ZONING ADMINISTRATOR.

This Ordinance shall be administered and enforced by a Zoning Administrator appointed by the County Board. The term of office of the Zoning Administrator shall be indefinite and shall terminate at the pleasure of the County Board.

SECTION 25.2 DUTIES, POWERS AND ENFORCEMENT OF THE ZONING ADMINISTRATOR.

- A. Determine if applications comply with the terms of this Ordinance.
- B. Conduct inspections of structures and use of land to determine compliance with the terms of this Ordinance.
- C. Maintain permanent and current records of this Ordinance, including but not limited to, maps, amendments, conditional uses, variances, appeals and applications.
- D. Receive, file and forward all applications for appeals, variances, conditional uses and amendments to the designated official bodies.
- E. Institute in the name of the county any appropriate actions or proceedings against a violator as provided for.
- F. Issue land use permits and maintain records thereof.
- G. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.

SECTION 25.3 ENFORCEMENT.

- A. The Zoning Administrator shall enforce the provisions of the Ordinance through the proper legal channels.
- B. When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed. This shall be done by written notice.

- C. It shall be the duty of the County Attorney and the County Sheriff, when called upon by the County Board to perform such duties as may be necessary to enforce the provisions of this Ordinance.

SECTION 25.4 PLANNING COMMISSION.

- A. The County Board hereby establishes the Planning Commission. The Planning Commission shall consist of five (5) members appointed by the Chairman of the County Board and ratified by the County Board.
- B. At least two (2) members shall be residents of the portion of the county outside the corporate limits of the municipalities.
- C. The term of each member shall begin on February 1, and continue through January 31. Each member shall serve for a period of three (3) years, and the terms of five (5) members shall be staggered so that no more than two (2) terms expire in any one year except the term of the officer or employee appointed by the Board shall be annually.
- D. Each member upon reapplying after each term may be eligible at the discretion of the County Board for reappointment. Members can be reappointed for two additional consecutive terms, with total length of consecutive service not to exceed nine years.
- E. No more than one (1) voting member of the Planning Commission shall serve as an employee of the county.
- F. No voting member of the Planning Commission shall receive, during the two (2) years prior to appointment, any substantial portion of his/her income from business operations involving the development of land within Lyon County for urban and urban related purposes.
- G. The County Board may designate any elected official or employee as an ex-officio member of the Planning Commission.
- H. The Planning Commission may call for the removal of any member for non-performance of duty or misconduct in office. If a member has two (2) consecutive unexcused absences in any one year, the secretary shall certify this fact to the Planning Commission and the Planning Commission shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member has resigned.

- I. Should any vacancy occur among the members of this Planning Commission by reason of death, resignation, and disability or otherwise, immediate notice thereof shall be given to the Chairman of the County Board by the Secretary. Should any vacancy occur among the officers of the Planning Commission, the vacant office shall be filled in accordance with the provisions of this Section, such officer to serve the unexpired term of the office in which such vacancy shall occur.
- J. The members of the Planning Commission may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Planning Commission and in the conduct of the business of the Planning Commission.
- K. The Planning Commission shall elect a Chairman from among its members. The Planning Commission may select a secretary from its members or advisory members. The Planning Commission shall cooperate with the Zoning Administrator and other employees of the county in preparing and recommending to the County Board for adoption, comprehensive plans and recommendations for plan execution in the form of official controls and other measures and amendments thereto. In all instances in which the Planning Commission is not the final authority, the Planning Commission shall review all applications for conditional use permits and plans for subdivision of land and report thereon to the County Board.
- L. The County Board may by ordinance assign additional duties and responsibilities to the Planning Commission including but not restricted to the conduct of public hearings, the authority to order the issuance of some or all categories of conditional use permits, the authority to approve some or all categories of subdivisions of land, and the authority to approve some or all categories of planned unit developments. The Planning Commission may be required by the Board to review any Comprehensive Plans and Official Controls and any plans for public land acquisition and development sent to the County for that purpose by any local unit of government or any state or federal agency and shall report thereon in writing to the County Board.

ARTICLE 26. BOARD OF ADJUSTMENT

SECTION 26.1 CREATION AND MEMBERSHIP.

- A. A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as by Minnesota Statutes, sections 394.21 through 394.37, as amended.
- B. The Board of Adjustment shall consist of five (5) members. The members of the Board of Adjustment shall be appointed by the County Board. Each member shall serve for a period of three (3) years and the terms of the five (5) members shall be staggered so that no more than two (2) terms expire in any one year. Each member upon reapplying after each term may be eligible at the discretion of the County Board for reappointment, with total length of consecutive service not to exceed nine years.
- C. The term of each member shall begin on February 1 and continue through January 31 of the last year of member's term until a successor is appointed.
- D. At least two (2) members of such Board of Adjustment shall be residents of the portion of the county outside the corporate limits of the municipalities. All members shall also be members of the Planning Commission. No more than one (1) voting member shall serve as an employee of the county.
- E. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a board member from voting thereon shall be decided by a majority vote of all regular board members except the member who is being challenged.
- F. In the event a vacancy occurs as a result of death, incapacity, resignation or removal of any member of the Board of Adjustment, a new member shall be appointed as above provided, but only for the unexpired term of his/her predecessor.
- G. The Board of Adjustment may call for the removal of any member for nonperformance of duty or misconduct in office. If a member has two (2) consecutive unexcused absences in any one year, the secretary shall certify this fact to the Board of Adjustment, and the Board of Adjustment shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member had resigned.
- H. The members of the Board of Adjustment may be paid compensation in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Board of Adjustment and in the conduct of the business of the Board of Adjustment.

- I. The Board of Adjustment shall elect a chairman and a vice-chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its proceedings, findings and determinations. The Zoning Administrator shall act as secretary of the Board of Adjustment.
- J. The meetings of the Board of Adjustment shall be held at the call of its chairman and at such other times as the Board of Adjustment in its rules of procedure may specify.

SECTION 26.2 POWERS AND DUTIES.

The Board of Adjustment shall have the following powers and duties with regard to this Ordinance:

- A. Consider applications, make determinations and order the issuance of variances from the terms of this Ordinance, including restrictions placed on non-conformities, provided by this Ordinance.
- B. Hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official.
- C. Order the issuance of permits for buildings in areas designated for future public use on the Official Zoning Maps and Directory.
- D. Provide interpretation of district boundaries on the Official Zoning Maps and Directory when necessary.
- E. Perform other such duties as required by this Ordinance.

SECTION 26.3 APPEALS PROCEDURE.

The Board of Adjustment shall have the exclusive power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by any administrative officer in the interpretation or enforcement of this Ordinance. Such appeal may be initiated by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state in accordance with the following procedure. An appeal must be made within 30 days of an order, requirement, decision or determination made by any administrative officer in the interpretation or enforcement of this Ordinance.

A. Application.

1. The appellant requests the proper form from the Zoning Administrator. The application shall contain the following information:
 - (a) Name and address of the appellant.
 - (b) The specific order, requirement, decision or determination on which the appeal is based.
 - (c) The grounds for the appeal stating how the administrative officer erred in his/her action, determination or decision.
 - (d) The relief requested by the appellant.
 - (e) Applicant's signature.
 - (f) Any other information or exhibits as required by the Board of Adjustment necessary to make findings and determinations on the appeal.
2. The completed application shall be filed with the Zoning Administrator accompanied by the fee as set by the County Board.

B. Application Processing.

1. Upon receipt of the application, the Zoning Administrator shall forward a copy of the completed application and attachments to the Board of Adjustment members prior to hearing.
2. The appeal shall be placed on the agenda for a public hearing before the Board of Adjustment at their next meeting.

If the written request does not contain all required information, the sixty (60) day limit starts over only if the applicant is sent notice within ten business days of receipt of the request telling the requester what information is missing.

3. The Zoning Administrator shall give proper notice of the public hearing in the following manner.
 - (a) Notice of the time, place and purpose of the public hearing shall be given by publication in the official newspaper of the county at least ten (10) days before the hearing.

(b) Written notice of the time, place and purpose of the public hearing shall be mailed at least ten (10) days but not more than thirty (30) days prior to the hearing to:

(1) The Commissioner of the Department of Natural Resources if the subject of the appeal relates to the Floodplain or Shoreland Area.

(2) The appellant.

(3) The affected commission or board member.

(4) The affected administrative officer.

C. Public Hearing.

1. The Board of Adjustment shall hold at least one (1) public hearing on the appeal.

2. The applicant or his/her representative shall appear before the Board of Adjustment to answer questions concerning the appeal.

3. An accurate record of all testimony shall be kept by the Secretary of the Board of Adjustment. This record shall contain the names of all persons testifying or otherwise participating at the hearing.

D. Findings.

1. The Board of Adjustment shall not grant an appeal unless it finds the following facts illustrating that the ruling appealed from is clearly erroneous as determined by:

(a) The ruling was based upon a grave misapprehension of the relevant facts.

(b) The ruling resulted from a clearly improper application of the terms of this Ordinance to the relevant facts.

(c) The ruling was an abuse of the discretionary authority of the officials issuing it or was a result of bad faith on the part of those officials.

2. The burden of showing the erroneousness of the ruling shall be on the appellant with all doubts resolved in favor of upholding the administrative officer's ruling.

E. Decision.

1. The Board of Adjustment shall make a decision upon the appeal within sixty (60) days of making application.
 - (a) Decision and response must be made within sixty (60) days of initial application. Failure of a decision within the timeline is approval of the request.
 - (b) Timeline may be extended before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
 - (c) See also Minnesota Statutes, section 15.99, as amended, Time Deadline for Agency Action.
2. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.
3. The concurring vote of a majority of the Board of Adjustment members shall be necessary for the approval or denial of an application for appeal.
4. The Board of Adjustment shall make written findings in each case and state the reasons for its decisions.
5. The decision shall be filed with the Zoning Administrator who shall:
 - (a) Issue a permit if directed.
 - (b) File a certified copy of the order with the County Recorder for record. The order shall contain a legal description of the property involved, if applicable.
 - (c) Forward written notice of the Board of Adjustment's decision to the appellant and other affected persons.
 - (d) Forward copies of all decisions on appeals affecting the Floodplain and Shoreland Area to the Commissioner of the Department of Natural Resources within ten (10) days of such action.

F. Decisions final and new information.

1. All decisions of the Board of Adjustment in hearing appeals as provided by this Ordinance shall be final. Any aggrieved person or persons, or any department, board or commission of the jurisdiction, or of the state shall have the right to appeal the decision to the County District Court on questions of law and fact. Said appeal shall be made within thirty (30) days after receipt of notice of the decision.
2. An applicant may appeal the decision of the Board of Adjustment when new information is obtained which is relevant to the issue. An application for a rehearing shall be made in the same manner as the original hearing. The application for a rehearing shall be denied by the Board of Adjustment if it is determined, from the record, that there has not been substantial change in facts, evidence or conditions.

G. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property.

H. Fees.

1. To defray administrative costs of processing applications of appeals, all applicants shall be subject to a flat sum fee in an amount set by the County Board.
2. Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering, recording and planning consultant assistance necessary for proper review and consultation to assist the Board of Adjustment and County Board in its decision-making.

SECTION 26.4 VARIANCE PROCEDURE.

A Variance from the provisions and requirements of this Ordinance may be authorized by the Board of Adjustment in specific cases where the criteria set forth herein have been met.

Any person, firm, corporation or any other organization or entity having an interest in real property which is subject to the provisions of this Ordinance may apply for a variance from these provisions.

A. Application.

1. The applicant requests the proper form for a variance from the Zoning Administrator. The application shall contain the following information:
 - (a) Name and address of the applicant.
 - (b) The legal description of the property involved in the request for the variance.
 - (c) The names and addresses of owners of the property or any persons having a legal interest therein.
 - (d) A site plan showing all pertinent dimensions, buildings and significant natural features having an influence on the variance.
 - (e) The variance request and a statement outlining the particular situation involved in creating the need for a variance.
2. The completed application shall be filed with the Zoning Administrator accompanied by the fee as set by the County Board.

B. Application Processing.

1. Upon receipt of the application, the Zoning Administrator shall forward a copy of the completed application and attachments to the Board of Adjustment members prior to hearing.
2. The Zoning Administrator shall place the application for a variance on the agenda for a public hearing at the next meeting of the Board of Adjustment.

If the written request does not contain all required information, the sixty (60) day limit starts over only if the applicant is sent notice within ten business days of receipt of the request telling the requester what information is missing.

3. The Zoning Administrator shall give proper notice of the public hearing in the following manner:
 - (a) Notice of the time, place and purpose of the public hearing shall be given by publication in the official newspaper of the county at least ten (10) days before the hearing.
 - (b) Written notice of the time, place and purpose of the public hearing shall be mailed at least ten (10) days but not more than thirty (30) days prior to the hearing to:

- (1) All property owners of record within five hundred (500) feet of the affected property, or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, in unincorporated areas.
 - (2) When the subject site adjoins an incorporated area, all property owners of record within 500 feet of the affected property within the incorporated areas.
 - (3) The affected board of township supervisors and the city council of any municipality within two (2) miles of the affected property.
 - (4) The Commissioner of the Department of Natural Resources if the affected property is within the Floodplain or Shoreland Area.
- (c) For the purpose of giving mailed notice, the current records on file in the Office of the County Treasurer shall be deemed sufficient. The failure of any property owner to receive written notice or any defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notification requirements has been made. Property owners of record shall not include recorded Contract for Deed Vendors.
- (d) A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.
- (e) The Board of Adjustment or delegation thereof shall view the property being considered for a variance prior to the public hearing.

C. Public Hearing.

1. The Board of Adjustment shall hold at least one (1) public hearing on the proposed variance.
2. The applicant or his/her representative shall appear before the Board of Adjustment in order to answer questions concerning the variance application.
3. All proposed variances from the provisions of this Ordinance, when requested by the Board of Adjustment, shall be reviewed by any appropriate county office.

4. The Board of Adjustment and appropriate County staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant in order to establish performance conditions in relation to pertinent sections of this Ordinance.
 5. The applicant for a variance which in the opinion of the Board of Adjustment may result in a material adverse effect on the environment may be requested by the Board of Adjustment to demonstrate the nature and extent of such effects.
 6. An accurate record of all testimony shall be kept by the Secretary of the Board of Adjustment. This record shall include the names of all persons testifying or otherwise participating in the hearing.
- D. Findings – Use Variance. No variance from the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that in its opinion all of the following facts and conditions exist if applicable.
1. The use is permitted in the given zoning district.
 2. The variance is in harmony with the general purposes and intent of this Ordinance and is consistent with the County Comprehensive Land Use Plan and the Official Map.
 3. That there are particular hardships in the strict application of the provisions of this Ordinance and that the subject property cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.
 4. The circumstances unique to the property were not created by the applicant and relate to the property rather than to a personal preference of the applicant.
 5. Economic considerations alone shall not constitute a difficulty or hardship for the purpose of granting a variance if reasonable use for the property exists under the terms of this Ordinance.
 6. The variance will not adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the subject property.
 7. Granting of the variance will not essentially alter the character of the locality.

8. The variance will not adversely affect the environmental quality of the area.
9. The variance requested is the minimum variance which would alleviate the hardships.
10. Whether the variance conforms to other applicable County Ordinances and plans, and state and federal laws, rules, and regulations.

E. Findings – Area Variance. No variance from the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that in its opinion all of the following facts and conditions exist.

1. The requested variance is not a substantial variation from the intent of the zoning ordinance.
2. The requested variance will not have an adverse effect on government services.
3. The requested variance will neither effect a substantial change in the character of the neighborhood nor result in a substantial detriment to neighboring properties.
4. There is not a feasible method to alleviate the practical difficulty without need of a variance. Economic considerations play a role in the analysis under this factor.
5. The landowner did not create the need for the variance.
6. In light of all of the above factors, granting the variance will serve the interests of justice.

F. Decision.

1. The Board of Adjustment shall make a decision upon a variance request within sixty (60) days of making application.
 - (a) Decision and response must be made within sixty (60) days of initial application. Failure of a decision within the timeline is approval of the request.
 - (b) Timeline may be extended before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension

and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.

- (c) See also Minnesota Statutes section 15.99, as amended, Time Deadline for Agency Action.
2. The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent property in the public interest.
 3. The concurring vote of a majority of the Board of Adjustment members shall be necessary for the approval or denial of an application for a variance.
 4. The Board of Adjustment shall make written findings in each case and state the reasons for its decision.
 5. The decision, together with any conditions, shall be filed with the Zoning Administrator who shall:
 - (a) Issue the applicable permit relating to the variance.
 - (b) File a certified copy of the decision with the County Recorder which shall become a part of the title of the property. The decision shall contain a legal description of the property involved.
 - (c) Forward written notice of the Board of Adjustment decision to the applicant and applicable townships and cities.
 - (d) Forward copies of all variances affecting the Floodplain and Shoreland Areas to the Commissioner of the Department of Natural Resources within ten (10) days of such action.
 6. The Zoning Administrator shall maintain a record of all variances approved including information on the reasons, location and conditions imposed by the Board of Adjustment.
 7. The purpose for which the variance was granted shall be undertaken by the applicant within 18 months of the granting of the variance. For good cause, the Zoning Administrator may grant an administrative extension of up to 12 months. Said extension shall be in writing. If the applicant fails to establish use of the variance within said time limits, the variance shall expire.

G. Decisions final and new information.

1. All decisions of the Board of Adjustment in considering variance requests as provided by this Ordinance shall be final. Any aggrieved person or persons, or any department, board, or commission of the jurisdiction or of the state shall have the right to appeal the decision to the County District Court on questions of law and fact. Said appeal shall be made within thirty (30) days after delivery of the Board of Adjustment's decision. Notice of the Board of Adjustment's decision is to be delivered to the applicant and any other person who requests notice and provides the Zoning Administrator with his/her name and address. Delivery of notice shall be complete upon mailing by first class, United States mail. Any person may waive his/her right to notice as provided herein.
 2. An applicant may appeal a decision of the Board of Adjustment when new information is obtained which is relevant to the issue. An application for a rehearing shall be made in the same manner as the original hearing. The application for a rehearing shall be denied by the Board of Adjustment if it is determined, from the record, that there has not been substantial change in facts, evidence or conditions.
- H. Use Variance Prohibited. No variance shall be granted that would allow any use that is prohibited or allowed only as a conditional use in the zoning district in which the subject property is located.
- I. Compliance. Any variance permitted under the provisions of this Ordinance shall be established and conducted in conformity with the conditions of such variance. The variance shall be perpetual, unless specifically limited, provided all conditions of the variance are complied with.
- J. Reconsideration. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial, except on the grounds of new evidence or proof of change on conditions found to be valid.
- K. Fees.
1. To defray administrative costs of processing requests for variances, all applicants shall be subject to a flat fee set by the County Board.
 2. Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering, recording and planning consultant assistance necessary for proper review and consultation to assist the Planning Commission and County Board in its decision-making.

SECTION 26.5 VARIANCES AND APPEALS WITHIN SHORELAND AND FLOODPLAIN.

A. Shoreland. Variances may only be granted in accordance with Minnesota Statutes, chapter 394, as amended. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

1. The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. The same procedure shall be followed as stated in Section 26.4.A.-J. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 26.5.B.(2). below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(a) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(b) Notifications to the Department of Natural Resources.

(1) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under

local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

- B. Floodplain. A variance means a modification of a specific permitted development standard required in Article 6 to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the County's respective planning and zoning enabling legislation.
1. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of Article 6 as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for Counties. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.
 2. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
 3. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the same procedure shall be followed as stated in Section 26.4 A-J.
 4. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Article 23, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Article 29.
 5. Appeals from any decision of the Board of Adjustment may be made as specified in Lyon County's Official Controls and Minnesota Statutes.

6. Flood Insurance Notice and Record Keeping. The Zoning Administrator 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.
 - (b) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
 - (c) The County shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

ARTICLE 27. AMENDMENTS/REZONING

SECTION 27.1 AUTHORITY.

Whenever the public necessity, convenience, general welfare or good land use require such amendment, the County Board may, by ordinance, amend, extend or add to the regulations of this Ordinance in accord with the applicable provisions of Minnesota Statutes, sections 394.21 - 394.37, as amended.

A. Application:

1. An application for amendment, extension or addition to the regulations of this Ordinance shall be filed with the Zoning Administrator by one of the following:
 - (a) A petition from a resident or residents living within the jurisdiction of this Ordinance.
 - (b) A recommendation of the Planning Commission.
 - (c) Action by the County Board.
2. Said application shall be filed at least twenty (20) days prior to the hearing thereof.
3. An application for an amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the County Board until it has received the recommendations of the Planning Commission.
4. Required information accompanying application to change the wording of this Ordinance shall contain the following:
 - (a) Stated reason for change requested.
 - (b) Statement on compatibility to the County Land Use Policy Plan.
 - (c) Text of portion of the existing ordinance to be amended.
 - (d) Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.

- (e) Additional information as may be requested by the Planning Commission.
5. Required information accompanying applications to change district boundaries shall contain the following:
- (a) The names and addresses of the petitioner or petitioners, and their signatures to the petition.
 - (b) A specific description of the area proposed to be rezoned, and the names and addresses of all owners of property lying within such area, and a description of the property owned by each.
 - (c) The present district classification of the area and the proposed district classification.
 - (d) Proposed use of the land (a statement of the type, extent, area, etc.).
 - (e) Map and plot plan or survey.
 - (f) Compatibility with the Land Use Plan of Lyon County (a statement of conditions warranting change in zoning).
 - (g) A legal description of the property(ies) to be rezoned.
 - (h) Map plot plan, or survey plot of property to be rezoned (showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties within one-half (½) mile in unincorporated areas drawn to scale).
 - (i) Additional information as may be requested by the Planning Commission.

B. Procedure.

1. Upon receipt of the proper application and other requested material for amendment or rezoning, the Planning Commission shall hold a public hearing in a location to be prescribed. Such public hearings may be continued from time to time and additional hearings may be held.
2. Notice of the time, place and purpose of any public hearings shall be given by publication in the official newspaper of the county, at least ten (10) days before the hearing.

3. For district boundary changes or zoning use changes, Section 27.1.B.1. and B.2. shall apply, plus:
 - (a) All property owners of record within five hundred (500) feet of the affected property, or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners, in unincorporated areas.
 - (b) When the subject site adjoins an incorporated area, all property owners of record within 500 feet of the affected property within the incorporated areas.
 - (c) The affected board of township supervisors and the city council of any municipality within two (2) miles of the affected property.
 - (d) For the purpose of giving mailed notice, the current records on file in the Office of the County Treasurer shall be deemed sufficient. The failure of any property owner to receive written notice or any defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notification requirements has been made. Property owners of record shall not include recorded Contract for Deed Vendors.
 - (e) A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.
4. In areas where joint planning review processes are authorized the Planning Commission may refer the proposed amendment request for review, comments, and recommendations prior to the public hearing.

C. Action and Authorization.

1. Following the closing of the public hearing, the Planning Commission shall request the Zoning Administrator to report its findings and recommendations on the proposed amendment or rezoning to the County Board at their next regularly scheduled board meeting.
2. Upon the filing of such report or recommendation, the County Board may hold such public hearings upon the amendment, as it deems advisable. After the conclusion of the hearings, if any, the County Board may adopt the amendment or any part thereof in such form, as it deems advisable. The amendment shall be effective only if a majority of all members of the County Board concur in its passage.

D. Fees.

1. All applications for a zoning district boundary change or amendment to this Ordinance shall be accompanied by a fee set by resolution of the County Board.
2. Additional fees may be charged to the applicant for actual costs incurred by the County for legal, engineering, recording and planning consultant assistance necessary for proper review and consultation to assist the Planning Commission and County Board in its decision-making.

E. Recording.

1. Upon the adoption of any ordinance or other official control including any maps or charts supplemented to or as a part thereof, the County Auditor shall file a certified copy thereof with the County Recorder for record. Ordinances, resolutions, maps or regulations filed with the County Recorder pursuant to this Ordinance do not constitute encumbrances on real property.

F. Effective Date. The amended Ordinance shall become effective after adoption by the County Board and due publication thereof.

SECTION 27.2 AMENDMENTS WITHIN SHORELAND OR FLOODPLAIN AREAS.

All amendments to the Floodplain or Shoreland regulations including amendments to the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

ARTICLE 28. LAND USE PERMITS

SECTION 28.1 LAND USE PERMITS.

- A. Hereafter no person shall erect, alter, or move any building or part thereof without first securing a land use permit.
- B. Application for a land use permit shall be made to the Zoning Administrator on blank forms to be furnished by the County. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of land use permit shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance or any other. The Zoning Administrator shall issue the land use permit only after determining that the building plans, together with the application, comply with the terms of this Ordinance.
- C. The purpose for which the land use permit was granted shall be undertaken by the applicant within 12 months of the granting of the land use permit. For good cause, the Zoning Administrator may grant an administrative extension of up to 12 months. Said extension shall be in writing. If the applicant fails to establish use of the land use permit within said time limits, the land use permit shall expire.
- D. Land use permit fees and other fees as may be established by resolution of the County Board shall be collected by the Zoning Administrator for deposit with the county and credited to the general revenue fund.

ARTICLE 29. VIOLATIONS, PENALTIES AND ENFORCEMENT

SECTION 29.1 VIOLATIONS AND PENALTIES.

- A. Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or by imprisonment as established by State Statutes. Each day that a violation continues shall constitute a separate offense.
- B. Any after-the-fact use permits shall be penalized by doubling the permit fee.
- C. A violation of the provisions of Articles 6, 23, and 26 relating to Floodplain Management District or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.
 - 1. In responding to a suspected Ordinance violation, the Planning Commission and County Board may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The County must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
 - 2. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the County's plan of action to correct the violation to the degree possible.
 - 3. The Zoning Administrator shall notify the suspected party of the requirements of Article 6 and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the County.

If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of Article 6 and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.
- D. Any violation of the provisions in Article 17, relating to Shoreland Management District or failure to comply with any of its requirements (including violations of conditions and safeguards established in with grants of variances or conditional use) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity.

SECTION 29.2 ENFORCEMENT.

- A. This Ordinance shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.
- B. In the event of a violation of this Ordinance, the County Board or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations, and it shall be the duty of the County Attorney to institute such action.
- C. Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.
- D. The County Attorney may at his/her discretion, institute such action in a lesser court than the District Court.

ARTICLE 30. FEES

SECTION 30.1 REQUIRED FEES.

The fees for a land use permit, rezoning, variance, amendment or conditional use permit shall be established by the County Board. The County Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the land use permits only after the fee has been paid and a determination has been made that the building plans, together with the application comply with the terms of this Ordinance. Any person filing a petition for an amendment to this Ordinance requesting a variance or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the Board before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

SECTION 30.2 EXEMPTIONS.

Lyon County governmental departments and agencies shall be exempt from the fee requirements as prescribed by this Ordinance.

ARTICLE 31. VALIDITY

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

ARTICLE 32. REPEAL

SECTION 32.1 REPEAL.

The existing zoning regulations, "Lyon County Zoning Ordinance", effective February 9, 2009, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said "Lyon County Zoning Ordinance effective February 9, 2009, as amended, if the violation is also a violation of the provisions of this Ordinance.

ARTICLE 33. DATE OF EFFECT

SECTION 33.1 DATE OF EFFECT.

This Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

Adopted: February 17, 2015
Published: March 4, 2015
Effective date: April 1, 2015

Charles Sanow, Chairman Lyon County Board

ATTEST: _____
Loren Stomberg, County Administrator

ARTICLE 33. DATE OF EFFECT

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Adopted: February 17, 2015
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Effective date: April 1, 2015



Charles Sanow, Chairman Lyon County Board

ATTEST: 
Loren Stomberg, County Administrator