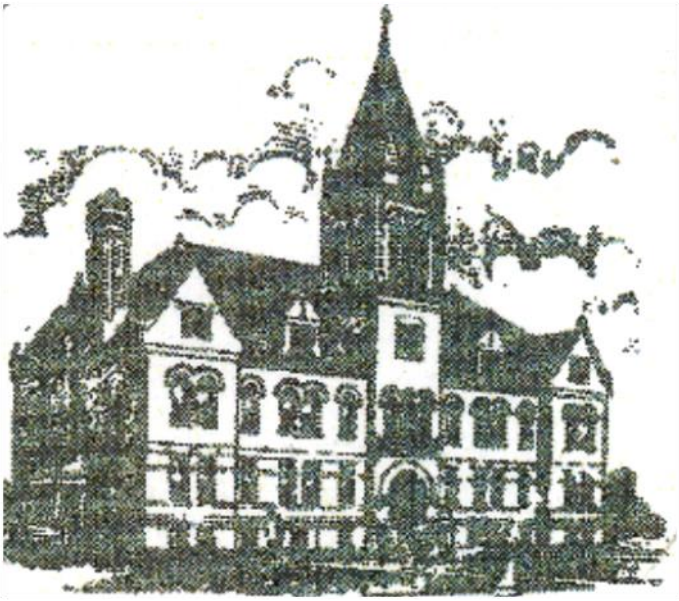

LAC QUI PARLE COUNTY

LAND USE

ORDINANCE

Adopted November 2, 1999

Amended September 5, 2000, Amended March 20, 2001, Amended November 21, 2006

Amended February 1, 2010, Amended May 6, 2014, Amended December 19, 2017

Land Use Ordinance

TABLE OF CONTENTS

SECTION 1: **TITLE**

SECTION 2: **INTENT AND PURPOSE**
2.01 Interpretation and Application
2.02 Purpose of Adult Use Regulations

SECTION 3: **APPLICATION OF THIS ORDINANCE**
3.01 Application

SECTION 4: **RULES**
Rules

SECTION 5: **DEFINITIONS**
5.01 Definitions

SECTION 6: **NON-CONFORMING USES AND STRUCTURE**
6.01 Non-Conforming Uses and Structures

SECTION 7: **ADMINISTRATION**
7.01 Zoning Administrator
7.02 Zoning Administrator Powers and Duties
7.03 Feedlot Administrator
7.04 Feedlot administrator Powers and Duties

SECTION 8: **RESERVED**

SECTION 9: **APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS**
9.01 Membership
9.02 Decisions
9.03 Duties
9.04 Conflicts of Interest
9.05 Authority

SECTION 10: **PLANNING COMMISION**
10.01 Membership
10.02 Decisions

10.03 Duties

SECTION 11: PERMITS AND FEES
11.01 Zoning Permits
11.02 Zoning Permit Procedures
11.03 Other Regulations

SECTION 12: ZONING ADMENDMENTS
12.01 Criteria
12.02 Procedure

SECTION 13: VARIANCES AND APPEALS
13.01 Appeals and Administrative Decisions
13.02 Variances
13.03 Criteria for Granting Variance
13.04 Variance Procedures
13.05 Administrative Variances
13.06 Recording of Variances
13.07 Appeal from the Board of Adjustment
13.08 Violations of Variance Conditions

SECTION 14: CONDITIONAL USE PERMITS
14.01 Procedure
14.02 Criteria for Granting Conditional Use Permits
14.03 Additional Conditions
14.04 Changes in Conditional Uses
14.05 Recording Conditional Use Permits
14.06 Revocation

SECTION 15: ZONING DISTRICTS AND DISTRICT PROVISION
15.01 Zoning Districts
15.02 Zoning Map

SECTION 16: AGRICULTURAL DISTRICT
16.01 Permitted Uses
16.02 Accessory Uses
16.03 Conditional Uses
16.04 Dimensional Standards for A-1 Districts

SECTION 17: URBAN EXPANSION DISTRICTS
17.01 Purpose

17.02 Permitted Uses
17.03 Conditional Uses
17.04 Accessory Uses
17.05 Dimensional Regulations

SECTION 18: COMMERCIAL-INDUSTRIAL DISTRICT
18.01 Purpose
18.02 Conditional Uses
18.03 Accessory Uses
18.04 Dimensional Standards
18.05 Business Adjacent to Residential Property
18.06 Exterior Storage
18.07 Service Roads Required

SECTION 19: PERFORMANCE STANDARDS
19.01 Purpose
19.02 Exterior Storage/Landscaping Maintenance
19.03 Refuse
19.04 Permitted Encroachments and Exceptions
19.05 Accessory Structures
19.06 Dwelling (Including Temporary Dwellings)
19.07 Relocating Structures
19.08 Access Drivers, Vacated Streets and Traffic Control
19.09 Manufactured Home Parks
19.10 Sign Regulations
19.11 Mining and Extraction
19.12 Telecommunication Towers
19.13 Restrictions on Agricultural Use

SECTION 20: SEWAGE AND WASTEWATER TREATMENT
20.01 General Provision
20.02 Administration
20.03 Definitions
20.04 SSTS Requirements
20.05 Permit Requirements
20.06 Compliance Inspection Program
20.07 Enforcement
20.08 State Notification of Violation
20.09 Fees
20.10 Dispute Resolution
20.11 Date of Effect

SECTION 21: FLOOD PLAIN DISTRICT

21.01 Statutory Authorization, Finding of Fact & Purpose
21.02 General Provisions
21.03 Establishment of Floodplain Zoning District
21.04 Floodway District (FW)
21.05 Flood Fringe District (FF)
21.06 General Flood Plain District
21.07 Subdivisions
21.08 Public Utilities, Railroads, Roads, and Bridges
21.09 Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles
21.10 Administration
21.11 Non-Conforming Uses
21.12 Penalties for Violation
21.13 Amendments

SECTION 22: SHORELAND DISTRICT

22.01 Statutory Authorization and Policy
22.02 General Provisions
22.03 Administration
22.04 Shoreland Classification System and Land Uses
22.05 Special Land Use Provisions
22.06 Dimensional and General Performance Standards
22.07 Performance Standards For Public and Private Facilities
22.08 Vegetation and Land Alterations
22.09 Subdivision/Platting Provisions
22.10 Planned Unit Developments (PUDs)

SECTION 23: FEEDLOT ORDINANCE

23.01 Permits
23.02 Appeal
23.03 Variances
23.04 Conditional Use Permits
23.05 Feedlot Standards
23.06 Waivers
23.07 Animal Manure Storage Facilities
23.08 Animal Manure Earthen Storage Basins
23.09 Animal Manure Application and Utilization
23.10 Non-Conformities
23.11 Amendments
23.12 Violations, Penalties of Enforcement

SECTION 24: AMENDMENTS

SECTION 25: WIND ENERGY ORDINANCE

25.01 Title
25.02 Purpose
25.03 Jurisdiction
25.04 Interpretation
25.05 Definitions
25.06 Procedures
25.07 District Regulations
25.08 Setbacks
25.09 Requirements and Standards
25.10 Enforcement, Violation, Remedies, Penalties and Fees
25.11 Validity
25.12 Date of Effect

LAC QUI PARLE COUNTY LAND USE ORDINANCE

AN ORDINANCE REGULATING THE USE OF LAND & WATER
IN LAC QUI PARLE COUNTY.

THE LAC QUI PARLE COUNTY BOARD ORDAINS IN ACCORDANCE WITH AUTHORITY GRANTED IN LAWS OF MINNESOTA CHAPTER 394 AS AMENDED, AS FOLLOWS:

SECTION 1 TITLE

1.00 TITLE

1.01 Title.

This Ordinance shall be known, cited and referred to as the Lac qui Parle County Land Use Ordinance and will be referred to herein as THIS ORDINANCE.

SECTION 2 - INTENT AND PURPOSE

2.00 INTERPRETATION AND APPLICATION

2.01 Interpretation and Application.

The provision of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes and are adopted for the purpose of:

1. Protecting the public health, safety, morals, comfort, convenience and general welfare.

2. Protecting and preserving economically viable agricultural land.

3. Promoting orderly development of the residential, commercial, industrial, recreational and public areas.

4. Conserving the natural and scenic beauty and attractiveness of the county.

5. Conserving and developing natural resources in the county.

6. Providing for the compatibility of different land uses and the most appropriate use of land throughout the county.

7. Minimizing environmental pollution.

2.02 Purpose of Adult Use Regulations.

The purpose and intent of the adult use regulations set forth in this Ordinance is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, curtail the depression of property values, restrain increased criminal activity and slow the spread of sexually transmitted diseases.

Adult Use Establishments, as defined by this Ordinance, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated.

One of the Ordinance's objectives is to disperse the adult uses through separation requirements from other adult uses and from other significantly incompatible uses.

The ordinance allows adult uses only in C-I Commercial-Industrial Districts and only within certain areas of that District. Those areas are located throughout the County and provide opportunity for sites with good visibility and access to major streets and highways.

The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and a significant change in the character of surrounding neighborhoods.

However, it is recognized that such regulations cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. The adult use regulations set forth in this Ordinance represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers, and patrons of those adult uses.

SECTION 3 APPLICATION OF THIS ORDINANCE

3.00 APPLICATION OF THIS ORDINANCE

3.01 Application.

1. **Jurisdiction.** The jurisdiction of this Ordinance shall apply to all the area of Lac qui Parle County outside of incorporated municipalities that have adopted zoning controls.

2. **Other Laws.** Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

3. **Districts**. No land use shall be permitted in any manner which is not in conformity with this Ordinance. This Ordinance divides the County into zoning districts in which only specified permitted and conditionally permitted uses are allowed. Land uses are further regulated with standards relating to some activities and most physical development. Provisions are provided for amending the regulations and for variances to some provisions.

4. **Permits**. Zoning Permits, Conditional Use Permits, and Variances are 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.

5. **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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

6. **Severability**. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid the remainder of this Ordinance will remain in full force and effect.

SECTION 4 RULES

4.00 RULES

4.01 Rules.

1. For the purpose of this Ordinance, words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular.

2. The word “building” shall include “structures” of every kind, regardless of similarity to buildings.

3. The word “person” shall include a firm, association, organizations, partnership, trust, company or corporation as well as an individual.

4. The words “shall” and “must” are mandatory and not discretionary.

5. The words “may” and “should” are permissive.

6. The word “lot” shall include the word “plot”, “place”, and “parcel”.

SECTION 5 DEFINITIONS
Updated December 19, 2017

5.00 DEFINITIONS.

5.01 Definitions.

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

"Administrator, Zoning" means the duly appointed person charged with enforcement of this Ordinance.

"Adult Arcade" means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

"Adult Bookstore" means an establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

"Adult Cabaret" means a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

"Adult Motion Picture Theater" means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

"Adult Theater" means a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

"Adult Use Establishments" include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

"Agriculture" The use of land for agricultural purposes, including farming, wind farming, dairying, pasturage, agriculture, horticulture, floriculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

"Agricultural Use" means the use of land for the growing and/or production and processing for local use of field crops, livestock and livestock products for the production of income including but not limited to the following:

1. Field crops, including by not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat and tree farming.

2. Livestock, including but not limited to: dairy and beef cattle, buffalo, goats, horses, sheep, hogs, poultry, game birds, ponies, deer, rabbits, mink, lamas, elk, emus, ostriches, and other exotic animals.

3. Aquaculture.

4. Livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur, and honey.

The definition includes sale of raw products, but not processing or sale of processed goods. This definition does not include animal feedlots which are defined and regulated separately.

"Airport" means the Dawson-Madison Airport located in Madison Township, Lac qui Parle, County, Minnesota, approximately 1 mile south of Madison, Minnesota.

"Airport elevation" means the established elevation of the highest point on the usable landing area which elevation is established to be 1082.0 feet above mean sea level.

"Airport hazard" means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or

taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

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

"Animal Manure" means poultry, livestock or other animal excreta, or a mixture of excreta with feed, bedding and other materials.

"Animal Unit" means a unit of measurement. For the purpose of this Ordinance, any animal not listed on the Animal Unit Equivalent chart of this Ordinance shall be defined as the average weight of the animal divided by one thousand (1000) pounds.

ANIMALS	MN ANIMAL UNIT FACTOR
Dairy Cattle	
1. Mature cow over 1,000 pounds	1.4
2. Mature cow under 1,000 pounds	1.0
3. Heifer	0.7
4. Calf	0.2
Beef Cattle	
1. Slaughter steer or stock cow	1.0
2. Feeder cattle or heifer	0.7
3. Cow and calf pair	1.2
4. Calf	0.2
Swine	
1. Over 300 pounds	0.4
2. Between 55 and 300 pounds	0.3
3. Under 55 pounds	0.05
Horse	1.0
Sheep and lambs	0.1
Chickens	
1. Laying hen or broiler (if liquid manure system)	0.033
2. Chicken over 5 pounds (dry manure system)	0.005
3. Chicken under 5 pounds (dry manure system)	0.003
Turkeys	
1. Over 5 pounds	0.018
2. Under 5 pounds	0.005
Ducks	0.01
Animals not listed above	Average weight of animal in pounds divided by 1,000 pounds = Unit factor

Source: *Minnesota Pollution Control Agency*

"Assisted Living Facility" means a building which contains multiple dwellings and which provides meals, supervision, or other daily living assistance services to residents.

"Basement" means any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

"Bed & Breakfast" means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals and lodgings are provided.

"Bedroom" means any room used principally for sleeping purposes, an all-purpose room, a study, or a den. A room planned and intended for sleeping.

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

1. Part or all of the feature is located in a shore land area;
2. The slope rises at least 25 feet above the ordinary high water level of the water body.
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and
4. The slope must drain toward the water body.
   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.

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

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

"Bluff, Top of" For the purpose of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

"Bluff line" means a line along the top of a slope connecting the points at which the slope becomes less than 12%. This applies to those slopes within the land use district(s) which are beyond the setback provisions from the ordinary high water mark.

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

"Board of Adjustment" means the board established pursuant to Minnesota Statutes Chapter 394.

"Board" means the board of County Commissioners.

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

"Building" means a structure having a roof which may provide shelter or enclosure of persons, animals, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

"Building Line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

"Building Height" or "Height of Building" means 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.

"Building Setback" means the minimum horizontal distance between the building and a lot line.

"Bulk Storage (Liquid)" means bulk storage of oil, gasoline, liquid fertilizer, chemicals & similar liquids in excess of 2,500 gallons.

"Business" means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

"Cabin" means a limited use, low investment, overnight shelter and lodging in a hunting area, fishing area or wildlife area. Cabins may not be used for continuous occupation.

"Channel" means a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

"Church or Place of Worship" means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

"Conditional Use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions

as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

"Comprehensive Plan" means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

"Cutting, Clear" means the removal of an entire stand of vegetation.

"Cutting, Selective" means the removal of single scattered trees.

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

"Commercial Use" means the principle use of land or buildings for the sale, lease, rental or trade of products, goods and services.

"Commissioner" means the Commissioner of the Department of Natural Resources.

"Community Water and Sewer Systems" means utilities systems serving a group of buildings, lot, or any area of the community, with the design and construction of such utility systems as approved by the community and the State of Minnesota.

"Conditional Use" A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county, and (3) is compatible with the existing neighborhood.

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

"County Board" means the Lac qui Parle County Board of Commissioners.

"Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

"Dike" means an embankment or ridge of either natural or synthetic materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Duplex," "Triplex," and "Quad" means 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" means a residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses, or tourist homes.

"Dwelling Unit" for Floodplain & Shore land purposes means any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

"Dwelling Attached" means a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

"Dwelling Detached" means a dwelling which is entirely surrounded by open space on the same lot.

"Dwelling Site" for Shore land & Floodplain purposes means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

"Earthen Storage Manure Basin" means a dike or excavated structure, often lined with clay or synthetic liner, in which manure is stored. The basin is emptied at least once a year. It is designed by a professional engineer or NRCS/SWCD Technician.

"Easement" means a grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

"Equal Degree of Encroachment" means a method of determining the location of encroachment lines so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

"Encroachment Lines" means the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood-carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the floodway between them will effectively carry and discharge a flood not less than the regional flood.

"Erosion Control and Wildlife Developments" means structures, water control developments, and ponds which are installed to control soil erosion or increase the habitat for wildlife, including but not limited to; erosion control structures, dams, diversions, terraces, waterways, culverts, pits and ponds.

"Essential Services" means overhead or underground electric, gas, communication, sewage, steam or water transmission or distribution systems and structures, by public utilities or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.

"Exterior Storage (includes open storage)"means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

"Extractive Use" means 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.

"Extraction Area" means any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area of two feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone, or other natural matter, or made by turning, breaking, or undermining the surface of the earth.

"Family" means an individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit or 4 or less unrelated persons living together in a single housekeeping unit.

"Farm" means a tract of land, which is principally used for agricultural activities such as the production of crops, and/or animals. A farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of "farm" under Minnesota's Green Acres Law Minnesota Statutes Chapter 273.111, as amended.

"Farmstead" means a development area designed and arranged to support farm

activities. A variety of structures, storage area, and other facilities, including adjacent windbreaks and shelter belts, typically comprise a farmstead. The area may contain one or more farm dwellings. A livestock feedlot may be present within the defined area of a farmstead, but for the purpose of this Ordinance, livestock feedlots shall not be considered to be part of a farmstead. Farmstead has boundaries which can be approximately defined and differentiated from surrounding fields and pastures and the administrator shall determine such boundaries as necessary.

"Feedlot, Existing" means an existing feedlot which was in operation on August 21, 1997, or within the previous five (5) years.

"Feedlot, New" means an animal feedlot constructed and operated on a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five (5) years or more.

"Fence" means a fence is any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

"Flood" means a temporary rise in stream flow or stage which results in inundation of the areas adjacent to the channel.

"Flood Frequency" means the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designed "exceedance frequency," but in practice the term "frequency" is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specified number of years.

"Flood Fringe" means that portion of the floodplain outside of the floodway.

"Flood Peak" means the highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.

"Floodplain" means the areas adjoining a watercourse which has been or hereafter may be covered by the regional flood.

"Floodplain Management" means the full range of public policy and action for ensuring wise use of the floodplains. It includes everything from collection and dissemination of flood control information to actual acquisition of floodplain lands, construction of flood control measures, and enactment and administration of codes, ordinances, and statutes regarding floodplain land use.

"Floodplain Regulations" means the full range of codes, ordinances, and other regulations relating to the use of land and construction within floodplain limits. The term encompasses zoning ordinances, subdivision regulations, and sanitary and building codes.

"Flood Profile" means a graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

"Flood proofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

"Flood Stage" means, as commonly used by the U.S. Weather Bureau and others, that stage, at a particular river gauge, where overflow of the natural banks of the stream results in significant flood damage in any portion of the reach for which the gauge is a representative index.

"Floodway" means the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

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

"Frontage" means that boundary of a lot which abuts an existing or dedicated public street.

"Garage" means an accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or family's resident upon the premises.

"Governing Body" means a town board of supervisors, the council of a municipality, or board of county commissioners.

"Guest Cottage" means 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" as used in connection with the granting of a Variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the Variance, if granted will not alter the

essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance. A variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

"Height" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Height of building" The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining 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" means any public thoroughfare or vehicular right-of-way with a federal, state or county numerical route designation.

"Home Occupation" means any occupation or profession carried on by a member of a family residing on the premises in connection with which there is used no sign other than one (1) non-illuminated nameplate measuring not more than one (1) by one and one-half (1 ½) feet in area attached to the building entrance provided that:

1. No commodity is sold upon the premises.

2. No person is regularly employed other than a member of the immediate family residing on the same premises.

3. No more than twenty-five percent (25%) of the total floor area of the home (including finished basements but not garages) is to be used for said home occupation.

"Horse Stable" means a horse raising and breeding operation that involves traffic of persons living offsite in connection with horse training, riding lessons, shows and boarding.

"Horticulture" means horticultural uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

"Hotel" means a building which provides a common entrance, lobby, halls and stairway and in which twenty or more people are, for compensation, lodged with or without meals.

"Impervious surface" A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt or gravel driveways; and other similar surfaces.

"Incorporation" means the mixing of manure or septage with the topsoil, concurrent with the application or immediately thereafter, by means such as discing, plowing, rototilling, injection or other mechanical means.

"Incorporated" means when manure is surface mechanically applied and mechanically incorporated within forty-eight (48) hours of application.

"Injected" means when manure is mechanically injected or tilled into the soil during the manure application.

"Individual Sewage Treatment System" (ISTS) - An individual sewage treatment system is a sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated the word "system" as it appears in this Ordinance means "Individual sewage treatment system".

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

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

"Kennel, Dog/Cat" means any structure or premises on which four (4) animals over four (4) months of age are kept for sale, breeding, profit, etc.

"Land Spreading" means the placement of septage or human waste from septic or holding tanks on or into the soil surface and the placements of petroleum contaminated soils on or into the soil surface.

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

"Landfill, Demolition" means a place for the disposal of demolition wastes including waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition.

"Landfill, Solid Waste" means a place for the disposal of solid waste including garbage, refuse and other discarded solid materials resulting from residential, commercial, industrial and community activities.

"Landing area" means the area of the airport used for the landing, taking off or taxiing or aircraft.

"Landscaping" means plantings such as trees, grass, and shrubs.

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

"Lot Area" means the area of a lot in a horizontal plane bounded by the lot lines.

"Lot Area, Buildable" means that contiguous portion of a lot remaining after the deletion of any floodplain, road rights-of-way, setback areas, wetlands, slopes of twelve (12) percent or greater and protected waters.

"Lot Depth" means the mean horizontal distance between the front lot line and the rear lot line of a lot.

"Lot Line" means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way. The right-of-way line shall be the lot line for applying this Ordinance.

"Lot Line, Front" means that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimensions on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner.

"Lot Line, Rear" means that boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

"Lot Line, Side" means any boundary of a lot which is not a front line or a rear lot line.

"Lot Width" The minimum distance between:

1. Side lot lines measured at the midpoint of the building line; and
2. Side lot lines at the ordinary high water level, if applicable.

"Manufactured Home" means manufactured homes are living quarters designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like. A manufactured home will be defined by reference to the latest publication of the Federal Manufactured Home Construction and Safety Standards Act of 1974 and Minnesota Statutes, Chapter 327.

"Manufactured Home Park" means any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. "Manufactured Home Park" shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such manufactured home park.

"Manufactured Home Stand" means the part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.

"Metallic Minerals and Peat." "Metallic Minerals and Peat" has the meaning given under Minnesota Statutes, Sections 93.44 to 93.51.

"Migratory Labor Camp" means temporary facilities provided by the employer on his own land for the housing of workers who for seasonal purposes are employed in the planting, harvesting, or processing of crops.

"Motel" means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

"MPCA" means the Minnesota Pollution Control Agency.

"Multiple Family Dwelling" means three (3) or more dwelling units in one structure including townhomes, apartment buildings, etc.

"Municipality" means a city, however organized.

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

"Non-Conforming Use" means use of land, buildings or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments hereto governing the zoning district in which such use is located.

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

"NRCS" means the National Resources Conservation Service.

"Nursery" means a tract of land that is principally used for the planting and growing of trees, flowering and decorative plants and shrubs for experimental purposes or for transplanting.

"Nursing Home" means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.

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

"Official Control" means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

"Off-Street Loading Space" means a space accessible from a street, alley, or driveway for the use of trucks or other vehicles wile loading or unloading merchandise or materials. Such space shall be of size as to accommodate one vehicle of the type typically used in the particular business.

"Official Map" means a map adopted in accordance with section 394.361 which may show existing county roads and county state aid highways, proposed future county roads and highways, the area needed for widening existing county roads and highways, and existing and future state trunk highway rights-of-way. An official map may also show the location of existing public land and facilities and other land needed for future policy purposes, including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities. When requested in accordance with section 394.32, subdivision 3, an official map may include existing and planned public land uses within incorporated areas.

"Official Newspaper" means the newspaper which has been designated by the County Board as the official newspaper of the County.

"Open Fences" means wire or rail or other fences so constructed that they do not hold or restrict snow.

"Open Sales Lot (Exterior Storage)" means any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

"Ordinary High Water Level or Ordinary High Water Mark" (OHWL) means 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 that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

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

"Parking Space" means a suitable surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store a standard automobile.

"Pastures" means areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

"Permitted Use" means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

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

"Pipeline" means an essential service that involves underground piping of flammable or hazardous material, not including distribution of natural gas to area users (service lines).

"Planned" as used in this ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the federal aviation administration, the department of aeronautics, and of Dawson and Madison and the County of Lac qui Parle, as tenants in common.

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

"Planning Commission" means the Planning Commission of Lac qui Parle County.

"Principal Structure or Use" means one which determines the predominant use as contrasted to accessory use or structure.

"Property Line" means the legal boundaries of a parcel of property, which may also coincide with a right-of-way line of a road, cart way, and the like.

"Public Land" means land owned or operated by municipal, school district, county, state or other governmental units.

"Public Waters" Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.

"Quarter/Quarter Section" means a division of a section of land according to the survey and rules of the original United States Government Land Survey containing approximately 40 acres.

"Reach" means the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or human-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

"Recreation Equipment" means playing apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty (20) feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding twenty-five (25) square feet of floor area, or sheds utilized for storage of equipment.

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

"Recreation, Public" means including all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

"Recurrence Interval" means the average interval of time, based on a statistical analysis of actual or representative stream flow records, which can be expected to elapse between floods equal to or greater than a specified stage or discharge. The recurrence interval is generally expressed in years. See also flood frequency.

"Regional Flood" means a flood, which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

"Registered Land Survey" means a survey map of registered land designed to simplify a

complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statues 508.47.

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

"Residence" for purposes of the application of the feedlot ordinance means any dwelling which is currently occupied or has been occupied for a period of sixty (60) days within five (5) years of the permit application.

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

"Residential Property" means property which is either zoned for residential use or developed with single family or multiple family residential use including assisted living facilities.

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

"Road" means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated. Ingress and egress easements shall not be considered roads.

"Road, Private" means an un-platted access to more than one lot or parcel, including leased or rental properties where public access is limited.

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

"Rural Areas" means all areas not included under urban areas, such as agricultural, forest, and undeveloped areas.

"Salvage Yard" means an open area where used or secondhand materials are bought,

sold, exchanged, stored, baled, packed, disassembled, recycled or handled, including but not limited to: motor vehicles, scrap iron and other metals, paper, rags, rubber, tires, and bottles. This definition does not include solid waste or demolition landfills.

"Saturated Soil" (or seasonal high water table) means the highest elevation in the soil where all voids are filled with water, as evidenced by presence of soil mottling or other information.

"Screening" means opaque fencing or dense landscaping using evergreen trees or shrubs.

"Semipublic Use" means 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" means 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" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

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

"Sewer system" means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

"Sexual Encounter Establishment" means an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

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

"Shore land" means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

"Shore Land Setback" means the minimum horizontal distance between a structure and the ordinary high water mark.

"Shore Recreation facilities." Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

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

"Sign, Advertising or Billboard" means a sign which directs attention to a business, commodity, service, activity or entertainment which is not sold or offered upon the premises where the sign is located or which is only an incidental item or activity offered at that premises where the sign is located.

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

"Sign, Flashing" means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

"Sign, Illuminated" means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

"Sign, Name Plate" means any sign which states the name, or address, or both of the business or occupant of the lot where the sign is placed.

"Sign, Pylon" means a freestanding sign erected upon a single pylon or post, which is in excess of ten (10) feet in height with the sign mounted on the top thereof.

"Sign, Rotating" means a sign which revolves or rotates on its axis by mechanical means.

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

"Significant Historic Site" means 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 un-platted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All un-platted cemeteries are automatically considered to be significant historic sites.

"Slope" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

Slope = 3:1 = 3 ft. horizontal to 1 ft. vertical

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

"Specified Anatomical Areas" means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Sexual Activities" means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this definition.

"Standard Project Flood" means the flood that may be expected from the most severe combination of meteorological and hydrological conditions that is considered reasonably characteristic of the geographical area in which the drainage basin is located, excluding extremely rare combinations. Such floods are intended as practicable expressions of the degree of protection that should be sought in the design of flood control works, the failure of which might be disastrous.

"Steep Slope" means 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 these regulations. 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.

"Street" means a public right-of-way, which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

"Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, smoke stacks and other supporting facilities. The term "structure" for purposes of the airport zoning restrictions includes overhead transmission lines.

"Structural Alteration" means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

"Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit development.

"Suitability Analysis." An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features; susceptibility to flooding; existence of wetlands; soils erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; and any other relevant feature of the natural land.

"Surface Water-Oriented Commercial Use" means 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. Marina, resorts, and restaurants with transient docking facilities are examples of such use.

"Township" means any township.

"Tower" means any ground or roof mounted pole, spire, structure, or combination thereof exceeding fifteen (15) feet in height, which is intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade. Tower includes supporting lines, cables, wires, braces and masts which are attached to or part of a Tower.

"Traverse ways" for the purpose of determining height limits as set forth in this ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways no previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

"Tree" means a woody perennial plant having a single elongate main stem generally with few or no branches on its lower part.

"Urban Areas" means the area within the present corporate limits plus the adjoining areas that are or could be under the statutory extraterritorial zoning jurisdiction of any city, village, or borough.

"Use" means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

"Utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

"Variance" Means the same as that defined in Minnesota Statutes, Section 394.27 subd. 7.

"Vehicle" means car, truck, motorcycle, recreation vehicle or similar equipment, which is permitted by license to operate on public roads.

"Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no

instrument designation indicated on an approved planning document.

"Waiver" means the intentional or voluntary written relinquishment of a landowner's right under this Ordinance, which Waiver would negate the necessity of a Variance hearing for any feedlot proposing to be built within two thousand (2,000) feet from a neighboring residence under this Ordinance. Such properly signed and notarized Waiver would have the same effect as a decision of the Board of Adjustment.

"Water surfaces" for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

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

"Water-Oriented Accessory Structure or Facility" means 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 watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

"Watercourse" means a channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

"Waterway" means a natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.

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

"Wildlife Management Area" means a lot or lots where the main land use is for promotion of wildlife through raising of feed or provision of environmental conditions.

"Yard" means an open space on a lot which is unoccupied and unobstructed from its lowest elevation upward, except as otherwise permitted.

"Yard, Front" means that portion of the yard located between the front lot line, the side lot lines, and the front building line.

“Yard, Rear” means that portion of the yard located between the rear building line, side lot lines, and the rear lot line.

“Yard, Side” means that portion of the yard located between the front and rear yards and between the side building lines and side lot lines.

“Zoning District” means an area or areas within the limits of the County for which the regulations and requirements governing use are uniform.

SECTION 6 NON-CONFORMING USES AND STRUCTURES

6.00 NON-CONFORMING USES AND STRUCTURES

6.01 Non-conforming Structures or Uses.

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following conditions:

1. No such use shall be expanded, changed, altered or enlarged except in conformity with the provisions of this Ordinance, nor shall such expansion, change, alteration or enlargement increase the nonconformity.

2. If a non-conforming use is discontinued for a period of more than one (1) year, further use of the structures or property shall conform to this Ordinance.

3. If a non-conforming structure is destroyed by any cause (including floods), to an extent exceeding fifty (50) percent of its fair market value as indicated by the records of the County Assessor, the structure may not be rebuilt except in conformity with this Ordinance.

4. Normal maintenance of a dwelling or other structure containing or related to a lawful non-conforming use is permitted, including necessary repairs and incidental alterations, which do not extend or intensify the non-conforming use.

5. In the case of a non-conforming use or structure within a Floodplain District, additional conditions will apply as set out in the Floodplain Ordinance (Section 21 of this Ordinance).

6. In the case of a non-conforming use or structure within a Shoreland District, additional conditions will apply as set out in the Shoreland Ordinance (Section 22 of this Ordinance).

7. In the case of a non-conforming use or building relating to a feedlot additional conditions will apply as set out in the Feedlot Ordinance (Section 23 of this Ordinance).

Land Use Ordinance

SECTION 7 ADMINISTRATION

7.00 ADMINISTRATION

7.01 Zoning Administrator.
The County Board shall appoint a Zoning Administrator who shall administer and enforce the provisions of this Ordinance (with the exception of those duties delegated to the Feedlot Administrator by the Feedlot Ordinance). The County Board may authorize the Zoning Administrator to appoint such assistants as are necessary and to designate their power and duties with the limits of this Ordinance.

7.02 Zoning Administrator Powers and Duties.
The Zoning Administrator shall have the following powers and duties and may delegate them to assistants.

1. To receive and review applications for permits and issue permits if such permit request is in full conformance with the provisions of this Ordinance.

2. To receive and review application request for action by the Board of Adjustment and/or Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.

3. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered the Administrator must notify the violators and take such other steps as necessary to correct the violation.

4. To maintain records of all actions taken pursuant to the provisions of this Ordinance.

5. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.

6. To identify and locate jurisdiction and zoning district boundaries and public waters by on site-investigation, interpretation of official maps and other appropriate methods.

7.03 Feedlot Administrator.
The County Board shall appoint a Feedlot Administrator, who shall administer and enforce the provisions of this Ordinance. The County Board may authorize the Administrator to appoint such Assistant Feedlot Administrator(s) as are necessary and to designate their power and duties within the limits of this Ordinance.

7.04 Feedlot Administrator Powers and Duties.

The Administrator shall have the following powers and duties and may delegate them to the Assistant Administrator(s).

1. To receive and review applications for permits and issue permits only if such permit request is in full conformance with the provisions of this Ordinance.

2. To receive and review application requests for action by the Board of Adjustment and/or the County Planning Commission and provide such information, data and testimony as may be necessary for action to be taken.

3. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered, the Administrator shall notify the violator(s) and take such other steps as are necessary to correct the violation.

4. To maintain records of all actions taken pursuant to the provisions of this ordinance.

5. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.

6. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps and other appropriate methods.

SECTION 8 RESERVED

Land Use Ordinance

SECTION 9 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

9.00 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

9.01 Membership.

There is hereby created a Board of Adjustment consisting of three (3) to seven (7) members appointed by the County Board,

1. No elected officer of the County nor any employee of the County Board shall serve as a member of the Board of Adjustment.

2. At least one (1) member shall be from the unincorporated area of the County.

3. Members shall be appointed to three (3) year terms except that when the Board of Adjustment is first established. Terms shall be staggered so that no more than two (2) terms end at the same time.

4. Whenever a Board of Adjustment member leaves in the middle of a term, for any reason, a replacement member shall be appointed to complete the remaining portion of said term.

5. One (1) member of the Board of Adjustment shall also be a member of the Planning Commission.

9.02 Decisions.

All decisions of the Board of Adjustment shall require the affirmative vote of a simple majority of the members present.

9.03 Duties.

The Board of Adjustment shall have the following powers and duties.

1. The Board of Adjustment shall hear and act on requests for Variances from the provisions of this Ordinance.

2. The Board of Adjustment shall hear and decide appeals from an order, requirement, decision or determination made by the Administrator.

3. The County Board may assign additional duties and responsibilities to the Board of Adjustment including but not restricted to:

   A. The establishment of rules for the conduct of public hearings.

B. The authority to elect a Chairperson and Vice Chairperson from among its members.

4. The Board of Adjustments shall decide such other issues as are specifically defined in this Ordinance.

9.04 Conflicts of Interest.

Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular Board member from voting thereon shall be decided by majority vote of all regular Board members except the member who is being challenged.

9.05 Authority.

The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes Sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of a town, municipality, county, or state. In exercising its powers under this subdivision, the Board of Adjustment shall take into consideration the Township Board's recommendation when the Board of Adjustment's decision directly affects land within the township.

SECTION 10 PLANNING COMMISSION

10.00 PLANNING COMMISSION

10.01 Membership.

There is hereby created a Planning Commission consisting of not less than five (5) or more than eleven (11) members appointed by the County Board. Two (2) members shall be appointed from each County Commissioner District. One (1) member shall be appointed from the County Board.

1. No more than one (1) voting member of the Planning Commission shall be an officer or employee of the County.

2. One (1) member of the Planning Commission shall also be a member of the Board of Adjustment.

3. Members shall be appointed to three (3) year terms except when the Planning Commission is first established, then terms shall be staggered.

4. Whenever a Planning Commission member leaves in the middle of a term, for any reason, a replacement member shall be appointed to complete the remaining portion of said term.

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

10.02 Decisions.

All decisions of the Planning Commission shall require the affirmative vote of a simple majority of the members present.

10.03 Duties.

The Planning Commission shall have the following power and duties:

1. The Planning Commission shall make recommendations to the County Board on Conditional Use Permits and plans.
2. The County Board may assign additional duties and responsibilities to the Planning Commission including but not restricted to:

A. The establishment of rules for the conduct of public hearings.

B. The authority to elect a Chairperson and Secretary/Treasurer from among its members.

C. The authority to order the issuance of some or all categories of Conditional Use Permits in accordance with the rules that it has adopted for the conduct of business.

3. The Planning Commission shall decide such other issues as are specifically defined in this Ordinance.

SECTION 11 PERMITS AND FEES

11.00 PERMITS AND FEES

11.01 Zoning Permits.

For purposes of enforcing this ordinance, a zoning permit shall be required of all persons prior to:

1. Erection, structural alteration or relocation of permanent or portable structures/buildings or signs except political and real estate signs that conform to the standards of Section 19.10.

2. Installation, alteration, repair or extension of any sewage disposal system or solid waste disposal operation.

3. Shoreland alterations, including removal of trees and shoreland vegetation.

4. Land alterations, including mineral extraction and landfills.

5. Erection, alteration or relocation of permanent agricultural facilities such as silos, feedlots, grain bins, holding ponds, and slurry systems.

6. Location of all essential services.

7. Fences (not including open fences), retaining walls, berms and landscaping higher than two (2) feet.

8. The construction or modification of a dam or dike.

9. Within the flood plain, 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.

11.02 Zoning Permit Procedures

1. **Application.** Persons requesting a zoning permit shall fill out a zoning permit application available from the Zoning Administrator. Application requirements will be established by the Zoning Administrator and may include, but are not limited to the following information: a site plan showing the nature, location, dimensions of the lot, existing and proposed structures, locations to be filled or

where materials will be stored, and the location of the foregoing in relation to the shoreline, if applicable.

2. **Requirements.** Zoning permits will be issued only if the proposal is in compliance with applicable portions of this ordinance including, but not limited to:

   A. Zoning district permitted and conditionally permitted land uses.

   B. Zoning district dimensional standards and setbacks.

   C. Performance standards provided for certain activities as set out in Section 19 of this Ordinance.

   D. Other requirements established by the Zoning Administrator.

3. **Fee.** A fee, established by resolution of the County Board of Commissioners, shall be submitted along with the permit application.

11.03 Other Regulations.

Issuance of a zoning permit does not imply compliance with other applicable County regulations or regulations of other agencies unless otherwise stated.

SECTION 12 ZONING AMENDMENTS

12.00 ZONING AMENDMENTS

12.01 Criteria

1. **Changes in Policy and Goals.** The County Board may adopt amendments to the Zoning Ordinance and Zoning Map. Such amendments shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the County.

2. **Floodplain.** 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 the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

12.02 Procedure.

1. **Initiation of Process/Application.** An amendment to the Ordinance or Zoning Map may be initiated by the County Board, the Planning Commission or by a petition of affected property owners. Individuals wishing to initiate an amendment to the Ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator.

2. **Referral to Planning Commission.** 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 the County Board has received, prior to the recommendation of the Planning Commission. The Zoning Administrator may review the proposed amendment and provide the Planning Commission with a report and recommendation.

3. **Planning Commission Recommendation to the County Board.** After reviewing the proposed amendment, the Planning Commission will make a recommendation to the County Board as to whether the amendment should be made.

4. **County Board Agenda.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board, at its next regular meeting, following referral from the Planning Commission.

5. **Public Hearing & Notice.** The County Board will hold a public hearing regarding any proposed amendment to the Zoning Ordinance. In addition to the requirements of section 375.51, subdivision 2, written notice of public hearings on all amendments to the Zoning Ordinance must be sent to the governing bodies of all towns and all municipalities located within the County. Such public hearings may be continued from time to time and additional hearings may be held. Written notice of public hearings regarding amendments to the zoning code which affect specific properties must be sent to:

   A. The Applicant, if any;

   B. Adjacent property owners as follows:

      1.) In unincorporated areas of the County, property owners of record within one-half (1/2) mile of the affected property.

      2.) In incorporated areas of the county, property owners of record within five hundred (500) feet of the affected property.

   C. The affected board of town supervisors and the municipal council and any municipality within two miles of the property in question;

   D. If the application affects land lying in the Shoreland or Flood Plain District to the Commissioner of Natural Resources.

6. **Appearance by Applicant.** The applicant, if any, or the applicant's representatives may appear before the County Board in order to answer questions concerning the zoning amendment application.

7. **4/5ths Vote Required.** A 4/5ths vote of the County Board is required for any amendment to this Ordinance.

8. **Resubmission.** No application of a property owner for a rezoning shall be considered within the one-year period following a denial of such request. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.

9. **Floodplain & Shoreland.** In addition to the procedures provided for above, all amendments to the Floodplain and Shoreland Districts including amendments to portions of the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the floodplain portions of the Official Zoning Map must meet the Federal Emergency

Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

10. **Change in Comprehensive Plan.** At the time the County Board considers any change in the Zoning Map it will also consider a change to Comprehensive Plan if required as part of the change to the Zoning Map.

11. **Records.** The Zoning Administrator shall maintain records of amendments to the text of the Ordinance and/or the Zoning Map, in addition to the records required by law to be kept and filed with the County Recorder by the County Auditor.

Land Use Ordinance

SECTION 13 VARIANCES AND APPEALS

13.00 VARIANCES AND APPEALS

13.01 Appeals and Administrative Decisions

Appeals of decisions of the Administrator shall be heard by the Board of Adjustment provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the Administrator. The following procedure shall be followed:

1. **Application.** The person making the appeal shall apply for a hearing before the Board of Adjustment on forms provided by the Administrator.

2. **Notice and Hearing.** The Board of Adjustment shall after receipt of the completed application, schedule a hearing on the appeal.

   A. At least ten (10) days prior to the hearing a notice shall be published in the official county newspaper.

   B. The Board of Adjustment shall make their decision within ten (10) days of the public hearing and shall base their decision on the provisions of this Ordinance.

13.02 Variances.

A variance to the provisions of this Ordinance may be issued to provide relief to landowners where this Ordinance imposes undue hardship or practical difficulties in the use of the applicant's land.

13.03 Criteria for Granting Variances.

1. Variances may only be granted by the Board of Adjustment when the following findings have been made by the Board:

   A. There are practical difficulties or particular hardships in the way of carrying out the strict letter of any of this Ordinance. This involves a determination that:

      1.) Without a variance the property in question cannot be put to a reasonable use; and

      2.) The hardship is not based solely on economic considerations (except where the owner has no reasonable use for its property

under this Ordinance.)

B. The terms of the proposed variance are consistent with the Comprehensive Plan.

C. The proposed variance will be in harmony with the general purposes and intent of this Ordinance.

D. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

E. The variance, if granted, will not alter the essential character of the locality.

2. No land "use" different from that permitted in the zoning district (use variance) may be issued.

3. No variance shall have the effect of allowing a Floodplain District 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.

13.04 Variance Procedures

1. **Application.** A person applying for a variance must fill out and submit to the Zoning Administrator a variance application form.

2. **Application Deadline.** Application must be received prior to any deadline which may be established by the Zoning Administrator.

3. **Notice for Floodplain Properties.** If the applicant is requesting a variance from floodplain elevation, the Zoning Administrator may notify the applicant that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and 2) 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.

4. **Submission to the Board of Adjustment.** The Zoning Administrator shall refer the application to the Board of Adjustment for review and consideration. The Zoning Administrator may prepare and submit such recommendations and reports as the Administrator believes may be helpful to the Board of Adjustment.

5. **Public Hearing & Notice.** The Board of Adjustment will schedule a public hearing on the application. Notice of the public hearing will be published in the official newspaper at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:

   A. The Applicant;

   B. The board of township supervisors of the township in which the affected property is located.

   C. The municipal council of any municipality within two (2) miles of the affected property.

   D. To adjacent property owners of record within five hundred (500) feet of the affected property.

   E. If the application is for land lying in a Flood Plain District or a Shoreland District, to the Commissioner of Natural Resources.

6. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Board of Adjustment in order to answer questions concerning the variance application.

7. **Decision of Board of Adjustment.** After taking testimony from the public the Board of Adjustment will make a decision as to whether or not the variance should be granted.

8. **Conditions and Charges.** If the Board of Adjustment grants the variance, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate. The Board of Adjustment may also revise the variance to ensure that it is the minimum variance required.

9. **Notice of Decision.** The applicant will be provided with written notice of the Board of Adjustment's decision and the reasons for that decision. A copy of all decisions granting variances in Floodplain Zoning Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10. **Resubmission.** No application which is substantially the same as an application of a denied variance shall be resubmitted for a period of one (1) year from the

date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.

13.05 Administrative Variances

Modifications to existing structures or upgraded septic systems that are located or will be located within the setback area of a lot are allowed without a public hearing if they do not further encroach into the existing setback provided that in the case of:

1. An encroachment of public road, the road authority voices no objections on the basis of safety or future road projects or right-of-way widening on that road.

2. An encroachment on any other lot line setback, written consent from the abutting property owners affected is obtained.

The consent as outlined in (1) and (2) above shall be made upon forms prescribed by the Zoning Administrator and shall be recorded in the Office of the County Recorder, with any recording fees being paid by the applicant.

13.06 Recording of Variances

The Zoning Administrator will file a certified copy with the County Recorder of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance. Any order issued by the Board of Adjustment must include the legal description of the property involved.

13.07 Appeal from the Board of Adjustment

All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal, within thirty (30) days after receipt of notice of the decision, to the District Court in the County on questions of law and fact.

13.08 Violations of Variance Conditions

Violation of such conditions and safeguards, which were made a part of the terms under which a Variance is granted, shall be deemed a violation of this Ordinance.

SECTION 14 CONDITIONAL USE PERMITS

14.00 CONDITIONAL USE PERMITS

14.01 Procedure

1. **Application.** A person applying for Conditional Use Permit must fill out and submit to the Zoning Administrator a Conditional Use Permit application form.

2. **Application Deadline.** Application must be received prior to any deadline which may be established by the Zoning Administrator.

3. **Referral to Planning Commission.** After the application has been reviewed by the Zoning Administrator, the Zoning Administrator shall refer the application to the Planning Commission together with the Zoning Administrator's review and recommendations regarding the application.

4. **Public Hearing & Notice.** The Planning Commission shall schedule a public hearing on the application. Notice of the public hearing shall be published in the official newspaper as designated by the County Board at least ten (10) days prior to the hearing. In addition to the published notice, the Administrator shall notify the following of the time, place, and purpose of the public hearing:

   A. The Applicant.

   B. The board of township supervisors of the township in which the affected property is located.

   C. The municipal council of any municipality within two (2) miles of the affected property.

   D. Adjacent property owners as follows:

      1.) In unincorporated areas of the county, property owners of record within one-quarter (1/4) mile of the affected property, or the ten (10) properties nearest to the affected property, whichever is the greatest number.

      2.) In incorporated areas of the county, property owners of record within five hundred (500) feet of the property in question.

   E. If the application is for land lying in a Flood Plain District, to the

Commissioner of Natural Resources.

5. **Appearance by Applicant.** The applicant or the applicant's representatives may appear before the Planning Commission in order to answer questions concerning the Conditional Use Permit application.

6. **Recommendation to the County Board.** After taking public testimony and reviewing the Conditional Use Permit application, the Planning Commission will make a recommendation to the County Board as to whether the County Board should approve or deny the application, and, if approval is recommended, the Planning Commission may suggest conditions to be attached to the Conditional Use Permit.

7. **County Board.** If practical, the report of the Planning Commission shall be placed on the agenda of the County Board at its next regular meeting following referral from the Planning Commission.

8. **Conditions.** If the County Board grants the Conditional Use Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

9. **Amended Uses.** An amended Conditional Use Permit application shall be administered in the same manner as a Conditional Use Permit.

10. **Resubmission.** No application for a denied Conditional Use Permit shall be resubmitted for a period of one (1) year from the date of denial. The County Board may permit a new application, if in the opinion of the County Board, new evidence or a change or circumstances warrant it.

11. **Time Limitation.** If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land will not be required to pay a fee for said review.

14.02 Criteria for Granting Conditional Use Permits

In granting a Conditional Use Permit, the County Board shall consider the advice and recommendation of the Planning Commission and the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding land, including land values. Among other things, the County Board must make the following

findings where applicable.

1. **Not a Burden.** The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

2. **Compatible with Adjacent Uses.** The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residential zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land in a similar context of the uses in the vicinity.

3. **No Adverse Affect of Adjacent Properties.** The structure and site will not have an appearance, traffic, noise and emission levels that will have an adverse effect upon adjacent properties.

4. **Related to the Needs of the County.** The use is reasonably related to the overall needs of the County and to existing land uses.

5. **Consistent with the Comprehensive Plan.** The use is consistent with the purposes of the Zoning Ordinances and the purposes of the zoning district in which the applicant intends to locate the proposed use and the use is consistent with the Comprehensive Plan.

6. **Not a Traffic Hazard.** The use will not cause a traffic hazard or congestion.

7. **No Adverse Affect on Existing Business.** Existing nearby businesses will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

8. **Floodplain.** For property located in Floodplain Districts, the criteria set out in the Floodplain Ordinance will be met.

9. **Shoreland.** For property located in Shoreland Districts, the criteria set out in the Shoreland Ordinance will be met.

10. **Feedlots.** Feedlots will meet the requirements of the Feedlot Ordinance.

11. **Restrictions on Agricultural Use.** For property located in an Agricultural (A) or Urban Expansion (UE) District the applicant will meet the requirements set forth in Section 19.13.

14.03 Additional Conditions

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may recommend the imposition of and the County Board may impose conditions considered necessary to protect the best interest of the surrounding area or the County as a whole, in addition to the standards and requirements expressly specified by this Ordinance. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimensions.

2. Limiting the height, size, number or location of buildings.

3. Controlling the location and number of vehicle access points.

4. Increasing the street width.

5. Increasing the number of required off-street parking spaces.

6. Limiting the number, size, location or lighting of signs.

7. Requiring diking, berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

8. Designating sites for open space.

9. Designating operating hours and noise levels.

10. Any other condition the Planning Commission or County Board deems necessary to protect the public interest.

11. Additional conditions may be imposed on property located in a floodplain in accord with the Floodplain Ordinance.

12. Additional conditions may be imposed on property covered by the Shoreland Ordinance.

13. Additional conditions may be imposed on feedlots in accord with the Feedlot Ordinance.

14.04 Changes in Conditional Uses

Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall

require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the County Board and time limits, review dates, and such other information as may be appropriate.

14.05 Recording Conditional Use Permits

A certified copy of any Conditional Use Permit shall be filed with the County Recorder. The Conditional Use Permits shall include the legal description of the property involved. The County Board by ordinance shall designate the County official or employee responsible for meeting the requirements of the subdivision.

14.06 Revocation

In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke a Conditional Use Permit.

Land Use Ordinance

SECTION 15 ZONING DISTRICTS AND DISTRICT PROVISION

15.00 ZONING DISTRICTS AND DISTRICT PROVISION

15.01 Zoning Districts

The Zoning Districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan.

For the purposes of this Ordinance, Lac qui Parle County is hereby divided into the following Zoning Districts:

Symbol Name:

A: Agricultural Preservation

UE: Urban Expansion

C-I: Commercial/Industrial

FP: Floodplain

S: Shoreland

15.02 Zoning Map

The location of boundaries of the districts established by this Ordinance are set forth on the Zoning Map which is hereby incorporated as part of this Ordinance. It shall be the responsibility of the Zoning Administrator to maintain and update this map and the amendments to the Zoning Map shall be recorded within thirty (30) days after official adoption of zoning amendments.

The Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The boundaries of the zoning districts shall be determined by scaling distances on the Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the 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. In the case of a boundary determination in a Floodplain district, 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.

SECTION 16 AGRICULTURAL (A) DISTRICT

16.00 AGRICULTURAL (A) DISTRICT

The "A" Agricultural District is for land in the County where the preservation and conservation of land for agricultural purposes is important or where appropriate non-farm uses of land cannot be determined within the existing pattern of land use or within present growth and economic needs.

16.01 Permitted Uses

1. Agricultural land uses except those listed as conditional uses.

2. Farm Dwellings.

3. Single Family Dwellings (non-farm).

4. Temporary dwellings at a maximum of one (1) per lot.

5. Feedlots subject to the terms of the Feedlot Ordinance.

6. Nurseries.

7. Seasonal produce stands.

8. Public Recreation, Wildlife Management Areas (not involving permanent restrictions placed upon the property), Erosion Control and Wildlife Developments (not involving permanent restrictions placed upon the property);

9. Home Occupations.

10. Temporary construction buildings.

11. Local service lines of Essential Services.

16.02 Accessory Uses

1. Private Garages.

2. Other accessory uses customarily incidental and subordinate to a Permitted Use as determined by the Zoning Administrator.

16.03 Conditional Uses

1. Multiple Family Dwellings & Manufactured Home Parks.

2. Feedlots subject to the terms of the Feedlot Ordinance.

3. Retail nursery and garden supplies and greenhouses.

4. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services.

5. Churches and Places of Worship.

6. Cemeteries.

7. Schools.

8. Extractive Uses and Mining.

9. Kennels.

10. Cabins.

11. Horse Stables.

12. Any of the following structures if they exceed one hundred (100) feet in height: grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys, smokestacks, and church spires.

13. Demolition landfills/Sanitary landfills.

14. Government buildings.

15. Bulk storage (liquid).

16. Migrant labor camps that are in accordance with Minnesota Department of Health Migrant Labor Camp rules Chapter 4630 or as amended.

17. Telecommunication Towers.

18. Airports.

19. Advertising/Billboard Signs.

20. The placement of any easement or restrictive covenant upon agricultural land

for conservation, environmental, habitat development, or wildlife production purposes that results in restrictions being placed on ten (10) or more contiguous acres of agricultural land;

21. All uses classified as conditional uses in a C-I District but limited to areas within one thousand three hundred twenty (1,320) feet from the centerline of the following roadways;

Augusta Township:

Along County Road 7, one mile North and one mile South of Marietta City Limits
Along MN Hwy. 40, one mile East & one mile West of Marietta City Limits
Along County Road 24, two miles East of the South Dakota Border

Camp Release Township:

Along U.S. Hwy. 59, one mile South of U.S. Hwy. 212
Along U.S. Hwy. 212, from County Road 79 to the Chippewa County border
Along County Road 19, one mile South of U.S. Hwy. 212 (LQP County side of road only)

Baxter Township:

Along County Road 31, one mile North of U.S. Hwy. 212
Along County Road 275, one mile South of U.S. Hwy. 212
Along U.S. Hwy. 2l2, one mile East & West of County Road 31

Hamlin Township:

Along U.S. Hwy. 75, one mile North & South of U.S. Hwy. 212
Along U.S. Hwy. 212, one mile East and West of U.S. Hwy. 75

Hantho Township:

Along MN Hwy. 119, one mile North & South of MN Hwy. 40
Along MN Hwy. 40, one mile East of MN Hwy. 119

Mehurin Township:

Along County Road 7, one mile North & South of U.S. Hwy. 212
Along U.S. Hwy. 212, one mile East and West of County Road 7

Lake Shore North Township:

Along County Road 38, one mile West of Louisburg City Limits
Along County Road 67, one mile East of Louisburg City Limits
Along County Road 19, South of Louisburg City Limits to County Road 34

Madison Township:

Along U.S. Hwy. 75, one mile North and one mile South of the Madison City Limits
Along MN Hwy. 40, one mile East and one mile West of the Madison City Limits

Perry Township:

Along U.S. Hwy. 75, one mile North & one mile South of the Bellingham City Limits
Along County Road 30, one mile West of the Bellingham City Limits
Along County Road 207, one half mile East of Bellingham City Limits

Riverside Township:

Along U.S. Hwy. 212, one mile East and one Mile West of the Dawson City Limits
Along County Road 25, one mile North of U.S. Hwy. 212
Along County Road 23, one half mile South of the Dawson City Limits
Along County Road 39, one mile North of U.S. Hwy. 212

Ten Mile Lake Township:

Along County Road 275, one mile North of the Boyd City Limits
Along County Road 29, one mile South of the Boyd City Limits
Along County Road 2, one mile West of the Boyd City Limits and one mile East of the Boyd City Limits, including that area located in the N ½ of the NE ¼ of Section 22 that borders County Road 2 to the South

Walter Township:

Along County Road 24, one mile East of the Nassau City Limits
The property bordering the North Nassau City Limits in the S ½ of the SW ¼ Section 32

16.04 Dimensional Standards for A Districts

1. **Height Regulations**

   Maximum Structure Height of thirty-five (35) feet.

   This height limitation shall not apply to barns, grain elevators, silos, and other customary agricultural structures, windmills, elevator legs, cooling towers, water towers, telecommunication towers, chimneys, smokestacks, and church spires.

2. **Front Yard Regulations**

   Minimum setback from public road right-of-way:

   One hundred fifty (150) feet from the centerline of the road or one hundred (100) feet from the right-of-way line, whichever is a greater distance.

   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 the lot.

3. **Side Yard Regulations**

   Minimum side yard setback: Twenty (20) feet.

4. **Rear Yard Regulations**

   Minimum setback: Twenty (20) feet.

5. **Bluffline**

   Minimum setback: Thirty (30) feet.

6. **Lot Area Regulations**
   Minimum lot size: Three (3) acres.

7. **Residential Setbacks from Feedlots**
   Non-feedlot associated residential structures must be setback from feedlots by two thousand (2,000) feet unless granted a variance in the same manner as are permitted for feedlots pursuant to 23.06 of Section 23 of the Feedlot Ordinance.

8. **General Regulations**
   Additional requirements and other regulations are set forth in Section 19.

Land Use Ordinance

SECTION 17 URBAN EXPANSION DISTRICTS

17.00 URBAN EXPANSION DISTRICTS

17.01 Purpose

1. The "UE" Urban Expansion District provides areas adjacent to municipalities for the purpose of providing urban expansion through cooperative planning by the County, municipality and township.

2. The County, through its staff, Planning Commission, and County Board, will coordinate planning and development activities with affected cities and townships by:

   A. Promoting cooperative planning in land use matters and issues of mutual concern.

   B. Working with the cities and townships to promote orderly growth and annexation when warranted.

   C. Recommending to the local units of government ordinance changes which will air coordinated planning activities.

   D. Exchanging plans and policies between the County and adjoining units of government to ensure general knowledge of the on-going urbanization process.

3. The "UE" Urban Expansion District is designated to accommodate urban growth, preserve agricultural land and protect environmentally sensitive areas.

   A. The development of land for urban expansion purposes should occur as a logical extension of existing urban development.

   B. The areas designated for urban expansion should only include land which accurately represents an area of mutual planning concern.

4. The "UE" Urban Expansion District recognizes that development is a process. Plans, policies, and ordinances must reflect that land adjacent to cities is the area most frequently under pressure to be developed for new and different uses.

17.02 Permitted Uses

1. Agricultural land uses except those listed as conditional uses.

2. Farm Dwellings.

3. Single Family Dwellings (non-farm).

17.03 Conditional Uses

1. All uses classified as conditional uses in an A-1 zone and uses classified as permitted in an A-1 zone and not listed as permitted in a UE zone.

2. All uses classified as conditional uses in a C-I zone and all uses classified as permitted in a C-I Zone.

All conditional uses in an Urban Expansion District should, unless exceptional circumstances exist, in addition to meeting the criteria for conditional uses as set out in Section 14 of this Ordinance, meet the following conditions:

A. **City Plans.** All proposed construction and uses should be consistent with the applicable City plans for land use, road rights-of-way and drainage, if any.

B. **Density.** All residential development not served by municipal utilities should be at density levels approved by both the City and the County, if any.

C. **Dimensions.** The minimum lot size and lot dimensions should be consistent with those jointly approved by the City and the County, if any. If not jointly approved, the dimensions required by this Section apply.

D. **Single Family Dwelling Placement.** A complete plat must be submitted for the development of Single Family Housing. Each house must be placed on one platted lot and conform to the building setbacks jointly approved by the City and the County, if any. If no setbacks have been jointly approved by the City and the County, the setbacks required by this Section apply. All single family homes should be placed on lots to allow future re-subdivision of the lot to accommodate possible future municipal improvements.

E. **Site Plans.** Site plans for commercial and industrial development must meet the criteria jointly approved by the City and the County, if any. If no criteria are jointly approved for the property in question, the criteria in this Section will apply.

17.04 Accessory Uses

Accessory uses customarily incidental and subordinate to a permitted use as determined by the Zoning Administrator.

17.05 Dimensional Regulations

The regulations contained in this Section 17.05 relating to dimensional standards apply unless the City and County have agreed to different standards or unless the property is located within a two mile area boarding a city and is covered by the subdivision and zoning regulations of the City.

1. **Height Regulations**

   Maximum height of structures: Thirty-five (35) feet.

   This height limitation shall not apply to barns, grain elevators, silos, and other customary agricultural structures, windmills, elevator legs, cooling towers, water towers, telecommunication towers, chimneys, smokestacks, and church spires.

2. **Front Yard Regulations**

   Minimum setback from public road right-of-way:

   One hundred fifty (150) feet from the centerline of the road or one hundred (100) feet from the right-of-way line, whichever is a greater distance.

   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 the lot.

3. **Side Yard Regulations**

   Minimum side yard setback: Twenty (20) feet.

4. **Rear Yard Regulations**

   Minimum setback: Twenty (20) feet.

5. **Bluffline**

   Minimum setback: Thirty (30) feet.

6. **Lot Area Regulations**

   Minimum lot area for Residential Buildings: Three (3) acres

   Minimum lot area for Commercial and Industrial Buildings: Three (3) acres

7. **Lot Width and Depth Regulations**

   Minimum lot width: Two Hundred Fifty (250) feet

8. **Residential Setbacks from Feedlots**
   Non-feedlot associated residential structures must be setback from feedlots by two thousand (2,000) feet unless granted a variance in the same manner as are permitted for feedlots pursuant to 23.06 of Section 23 of the Feedlot Ordinance.

9. **General Regulations**
   Additional requirements and other regulations are set forth in Section 19.

SECTION 18 COMMERCIAL - INDUSTRIAL DISTRICT (C-I)

18.00 COMMERCIAL – INDUSTRIAL DISTRICT (C-1)

18.01 Purpose

The "C-I" Commercial - Industrial District provides areas throughout the County which promote a convenient and efficient distribution of a broad range of commercial and industrial establishments serving a large area. These commercial and industrial uses are intended to meet consumer demands, to satisfy commercial land use requirements for the County, to provide employment, to achieve a stable and compatible land use pattern, and to encourage economic growth.

All uses in a C-I District are "conditional uses". Except with regard to the minimum setbacks and screening established for C-I properties in this Section lot sizes, off-street parking, landscaping, screening, and setbacks may be determined as part of the Conditional Use Permit process as determined by the County Board based upon recommendations of the Planning Commission and Zoning Administrator. The minimum setbacks established by this Section 18 may be increased as part of the Conditional Use Permit process.

18.02 Conditional Uses

1. Commercial public recreation.

2. Hotels and motels.

3. Offices, clinics, and hospitals.

4. Retail trade.

5. Government buildings.

6. Wholesale business.

7. Indoor recreation, such as movie theaters.

8. Restaurants, cafes, and supper clubs.

9. Drive-in businesses.

10. Clubs & Lodges.

11. Truck stops, automobile service stations, and convenience stores.

12. Erosion control and wildlife developments.

13. Temporary construction buildings.

14. Salvage yards.

15. Extractive Uses.

16. Distillation of bone, coal, tar, petroleum, grain or wood.

17. Fertilizer manufacturing, compost or storage processing of garbage.

18. Livestock slaughter houses as processing plants.

19. On and off sale liquor establishment.

20. Freight transportation terminals.

21. Living quarters of persons employed on the premises.

22. Industrial and manufacturing uses.

23. Warehousing.

24. Essential Services including without limitations dams, power plants, switching yards, transmission lines of over 35KV, flowage areas, pipelines and buildings supporting essential services.

25. Auto, truck, and implement dealerships.

26. Bulk storage (liquid).

27. Advertising/Billboard Signs.

28. Cutting or filling in excess of fifty (50) cubic yards that is not in connection with another permitted use.

29. Telecommunication Towers.

30. Adult Use Establishments with a minimum separation of three hundred fifty (350) lineal feet from the lot line of any property containing any other Adult Use

Establishment and one thousand three hundred twenty (1,320) lineal feet from the lot line of any property containing a hotel, motel, nursing care home, assisted living facility, housing for the elderly, day care facility, church, school, or residence (and the location of an Adult Use Establishment shall also be limited to those areas shown on the Zoning Map).

18.03 Accessory Uses

Nameplate, Real Estate, Political, Construction, & Business Signs subject to the standards set out in Section 19.10 of this Ordinance.

18.04 Dimensional Standards

1. **Height Regulations**

   Maximum Structure Height: Thirty-five (35) feet.

   This height limitation shall not apply to barns, grain elevators, silos, and other customary agriculture structures, windmills, elevator legs, cooling towers, water towers, telecommunication towers, chimneys, smokestacks, and church spires.

2. **Front Yard Regulations**

   Minimum setback from public road right-of-way:

   One hundred fifty (150) feet from the centerline of the road or one hundred (100) feet from the right-of-way line, whichever is a greater distance.

   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 the lot.

3. **Side Yard Regulations**

   Minimum side yard setback: Twenty (20) feet.

4. **Rear Yard Regulations**

   Minimum setback: Twenty (20) feet.

5. **Bluffline**

   Minimum setback: Thirty (30) feet.

6. **Lot Area Regulations**

   Minimum lot size: Three (3) acres.

7. **Lot Width and Depth Regulations**

   Minimum lot width: Two Hundred Fifty (250) feet.

18.05 Business Adjacent to Residential Property:

Where any business (structure, parking, storage, or other commercial or industrial use) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary between its property and the residentially zoned or developed property. Screening shall also be provided where a business, parking lot, or industry is located across the street from residentially zoned or developed property, but not on that side of a business or industry considered to be the front.

18.06 Exterior Storage

No business or industry may store materials or equipment outside of enclosed buildings unless such storage is located in an area screened from view of adjacent properties and roadways. The following are exceptions to the above screening requirement:

1. Merchandise being displayed for sale.

2. Materials and equipment presently being used for construction on the premises.

18.07 Service Roads Required

The County may require that service roads be provided for new businesses along highways so that direct access to local streets by the business oriented traffic is avoided.

SECTION 19 PERFORMANCE STANDARDS

19.00 PERFORMANCE STANDARDS

19.01 Purpose

The Performance Standards established in this section are designed to encourage a high standard of development. All future development in all districts are required to meet these standards. These standards apply to existing development when indicated.

19.02 Exterior Storage/Landscaping Maintenance

1. On residential (non-farm dwelling site) property, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard more than ten (10) feet from the property line. Existing uses shall comply with this provision within twelve (12) months following enactment of this Ordinance.

2. In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

19.03 Refuse

1. **Waste/Refuse.**
   In all districts, all waste material, with the exception of crop residue debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

2. **Inoperable Vehicles.**
   Passenger vehicles and trucks in an inoperative state shall not be parked on residential (non-farm dwelling) property and commercial-industrial zoned property for a period exceeding seven (7) days. Inoperative means incapable of movement under their own power and in need of repairs. It is unlawful for any person to store or keep any vehicle without a current license and registration, whether such vehicle is dismantled or not, outside of an enclosed building on commercial-industrial or residential (non-farm dwelling) property. It is unlawful to create or maintain a junkyard or vehicle dismantling yard except as herein

provided. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

3. **Unused Refrigerators.**
It is unlawful for any person to own, possess or control any unused refrigerator or other container, which is of sufficient size to retain any person, which is exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

19.04 Permitted Encroachments and Exceptions

1. The following are exceptions to the setbacks established within the district:

   A. In any yard: Posts, decks under one (1) foot off the ground, off-street open parking spaces, driveways, individual hookups for essential services, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, berms, retaining walls, open terraces, landscaping, open canopies, steps, chimneys, flag poles, open fire escapes, sidewalks, and open fences.

   B. Except as provided in subparagraph 1 above, location of essential services, including, but not limited to, wells, on site septic systems, electric, gas, communication, sewage, steam or water transmission or distribution systems and structures, shall meet the appropriate front yard setbacks when adjacent to a road, and are not permitted encroachments or exceptions under this section.

2. Fences, retaining walls, berms and dense landscaping (hedges, shrubs) over two (2) feet higher than the natural ground level may be no closer that twenty (20) feet to highway and street right-of-way lines, except this provision shall not apply to barbed wire, electrical, or woven wire fences.

19.05 Accessory Structures

1. No accessory building may be located nearer the front lot line than the principal building on the lot.

2. No accessory building (except agricultural buildings located on farms) may exceed the height of the principal building.

3. No accessory building may exceed in total combined size the ground floor square footage of the principal building.

4. No accessory building or use may be constructed on a lot prior to construction

of the principal building.

5. In case an accessory building is attached to the principal building, it must be made structurally a part of the principal building and must comply in all respects with the requirements of this Ordinance applicable to the principal building. An accessory building, unless attached to and made part of the principal building shall not be closer than six (6) feet to the principal building, unless otherwise provided in this Ordinance.

6. Accessory structures located on a lake, river, or stream frontage lots may be located between the public road and the principal structure.

19.06 Dwellings (Includes Temporary Dwellings)

1. **Prohibited Dwellings**
   No garage, tent, trailer, or accessory building may at any time be used as a Dwelling.

2. **Dwelling Standards**

   A. No more than one (1) dwelling may be placed on any one lot except in the cases of temporary dwellings or where a permit has been obtained for a Multiple Family Dwelling.

   B. The lowest floor elevation of any dwelling must be at least three (3) feet above the groundwater and the ordinary high water mark of adjoining protected waters.

   C. All dwellings must be on foundations or piles or other foundation systems extending below the frost line, technologically proven to be sound as determined by the Zoning Administrator.

   D. All dwellings must be a least twenty (20) feet wide except in the cases of temporary dwellings.

   E. All dwellings must conform to the sewage treatment regulations of this Ordinance. No zoning permit will be issued for a new dwelling prior to sewage treatment system approval.

   F. The lot for a new dwelling must have access, by way of frontage to an existing public road.

   G. Manufactured homes shall bear a State seal as verification of

construction and inspection to ANSI A119.1 standards during original construction (issued for manufactured homes built between July 1, 1972 to June 14, 1976) or, for manufactured homes built after that date, a Federal seal in accordance with HUD CFR 3280 Construction Standards.

3. **Temporary Dwelling Standards**

A. Temporary dwelling applicants must demonstrate a need for housing of elderly, farm and business helpers, or occupants of the principal dwelling during construction or repair of the principal dwelling.

B. Temporary dwelling use must be secondary to the principal dwelling use and a time frame must be added as a condition for the conditional use.

C. All dwelling standards and dimensional standards apply to temporary dwellings, except:

1.) The treatment system of the main dwelling can be utilized if it is up to present standards and has enough capacity, otherwise it shall be brought into conformity and/or enlarged.

2.) There are no minimum width requirements.

3.) There are no foundation requirements, but the dwelling must be secure to the ground.

4.) In cases of use for the elderly, the dwelling may be attached to the main principal dwelling.

5.) Detached temporary dwellings are only allowed where the lot size for the principal dwelling is forty (40) or more acres except when being use only during construction or repair of principal dwelling.

D. Temporary dwellings for seasonal or temporary migrant agricultural workers must meet Minnesota Department of Health Migrant Labor Camp Standards.

4. **Temporary Construction Buildings**

A temporary construction building will be permitted if the following conditions are satisfied:

A. The building will be utilized as a field headquarters for directing the

ongoing construction of a project.

B. The building must have adequate sanitary facilities on the site.

C. The building and parking spaces must adhere to all setbacks for the zoning district and may only utilize the permitted access driveway.

D. The building may not be used as a dwelling.

E. The building may not be placed on the construction site until a zoning permit has been issued.

F. Such a permit shall expire when construction is completed or within one hundred eighty (180) days from the date of issuance, whichever is less. The Zoning Administrator may renew a permit.

19.07 Relocating Structures

1. **Permit Required.**

A permit must be obtained from the Zoning Administrator before any person may move a house or other structure. An application for a permit must designate the origin and destination of such building, the route over which it is to be moved and must state the time when the move will occur. The permit must indicate the location of the lot on which the house is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances. A permit to move a building will not be issued unless and until the following conditions are fully complied with and approved by the Zoning Administrator:

A. The building to be moved must comply in all respects with the standards in the Zoning Ordinance.

B. The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.

C. The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in the Zoning Ordinance.

2. **Electrical Wire Removal**

Whenever the removal of electrical or other overhead wires are required to accommodate the moving of a structure, the permit application must indicate which wires will need to be moved. The applicant to move a structure must pay all expenses associated with the removal and reinstallation of electrical and

other overhead wires, and may be required by the Zoning Administrator to make a deposit to ensure such payment.

19.08 Access Drives, Vacated Streets and Traffic Control.

1. **Driveways and Access Drives.**

   A. Driveways leading onto any public road will require a review by the road authority. The road authority will determine the appropriate location, size, and design of driveways and may limit the number of driveways in the interest of public safety and efficient traffic flow.

   B. Access drives which traverse wooded, steep, or open field areas must be constructed and maintained to a minimum ten (10) foot width, have base material depth sufficient to support access by emergency vehicles, and may not be located on a slope exceeding twelve (12) percent.

   C. Access drives two hundred (200) feet in length or more must have a minimum driving surface width of fourteen (14) feet.

   D. Access drives must have a twenty (20) foot long flat grade adjacent to public roadways.

   E. All lots or parcels, must front and/or abut a public roadway, which must be built and maintained by a public road authority. This provision does not apply to an existing farmstead that may be parceled off from the surrounding crop land.

2. **Vacated Streets.**
   Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceedings.

3. **Traffic Control.**
   Traffic into and out of business or industrial uses properties must in all cases be forward moving with no backing onto roadways.

4. **Intersection Maintenance.**
   On corner lots, with the exception of seasonal crops, nothing may be placed or allowed to grow in height exceeding two and one-half (2 ½) feet above the centerline grades of the intersecting streets over an area which allows clear vision from a distance of fifty (50) feet from the intersection.

19.09 Manufactured Home Parks.

1. **Intent**

The intent and purpose of this Section is to assure quality development equal to that found in other types of residential areas throughout the County. Excellence of design, development, and maintenance is the desired objective.

2. **Application.**

The applicant for a permit, in addition to other requirements, must include the name and address of the developer and a general description of the construction schedule and construction cost. The application for a permit must be accompanied by ten (10) copies of plans which indicate the following:

A. Location and size of the manufactured home park.

B. Location, size, and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.

C. Detailed landscaping plans and specifications.

D. Location and width of sidewalks.

E. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, and gas service.

F. Plans for an overhead street lighting system.

G. The method of disposing of garbage and refuse.

H. Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.

I. Plans and specifications for all road construction either within the park or directly related to park operation.

J. Floor plans of all service buildings to be constructed within the manufactured home park.

K. Detailed description of maintenance procedures and grounds supervision.

L. Plans for a tornado shelter.

M. Such other information as may be required or requested by the County.

3. **Performance Standards for Manufactured Home Parks.**

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

B. Each manufactured home park shall maintain an off-street overload parking lot for guests of occupants in the amount of one (1) space for every three (3) manufactured home sites and located within three hundred feet (300) of the unit to be served.

C. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the County Engineer, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. Plans for the disposal of surface storm water shall be approved by the County Engineer.

D. A properly landscaped area shall be adequately maintained around each manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.

E. Every structure in the manufactured home park shall be developed and maintained in a safe, approved, and substantial manner. The exterior of every structure shall be kept in good repair. All of said structures must be constructed to meet existing County codes. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

F. The area beneath all manufactured homes shall be enclosed with a material that is generally uniform through the entire manufactured

home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction is permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

G. All manufactured home parks must have an area or areas set aside for storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, must be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment may not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.

H. Signs are limited for each lot to one (1) nameplate or identification not to exceed twenty-five (25) square feet, with lighting, height and locations as approved by the Zoning Administrator. Signs must have a setback from the front lot line of fifteen (15) feet.

I. Each manufactured home park must have one (1) or more central community buildings with central heating which must be maintained in a safe, clean, and sanitary condition. Said buildings must be adequately lighted during all hours of darkness and must contain laundry washers, dryers, and drying areas, public telephones, and public mail boxes, in addition to public toilets and lavatories. For each one hundred (100) manufactured home lots or fractional part thereof, there must be one (1) flush toilet and one (1) lavatory for each sex.

J. A permit is required for all structures being placed in the park.

4. **Manufactured Home Park Lots.**

A. Each manufactured home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and must be at least fifty (50) feet wide.

B. Manufactured homes must be placed upon manufactured home lots so that there is at least twenty (20) feet clearance between manufactured home, twenty (20) feet between the front of the manufactured home and the front lot line, and twenty-five (25) feet between the rear of the manufactured home and the rear lot lines.

C. The area occupied by a manufactured home may not exceed fifty percent (50%) of the total area of a manufactured home site. Land is occupied by a manufactured home, a vehicle, a building, a cabana, a carport, an awning, storage closet or cupboard, or any structure.

D. The yards shall be landscaped except for necessary driveway and sidewalk needs which may not exceed one-half (1/2) the width of the site.

E Each manufactured home lot shall have off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum.

F. The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

5. **Manufactured Home Stands.**

A. Manufactured home stands must be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and over turning.

B. The manufactured home stands shall not heave, shift, or settle unevenly under the weight of the manufactured home, due to the frost action, inadequate drainage, vibration, or other forces acting upon the structure.

C. The manufactured home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.

D. Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds or as approved by the current Minnesota State Uniform Manufactured Home Standards Code whichever is more restrictive.

19.10 Sign Regulations.

1. **Exemption.**

The following signs are exempt from the requirement that they obtain a permit

and are considered to be permitted signs in all Agricultural, Urban Expansion, and Commercial-Industrial Districts.

A. Official signs erected and maintained by a public body.

B. Real Estate and Construction signs limited to one (1) sign per parcel.

C. Nameplate signs less than eight (8) square feet.

2. **Purpose.**
The purpose of this section is to protect, insure, maintain and retain the natural and scenic beauty and attractiveness of the roadside throughout the County. By the construction of public roads, the public has created views to which the public retains a right-of-view and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this Ordinance.

3. **Hazard.**
No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare, or that prevents ingress or egress from any door, window, or fire escape; that tends to accumulate debris as a fire hazard, or that is attached to a standpipe or fire escape.

4. **Traffic Hazard.**
No sign may be erected that, by reason of position, shape, movement, color, or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard. No signs shall be permitted which would interfere with traffic control.

5. **Traffic Signs.**
Private traffic circulation signs and traffic warning signs in alleys, parking lots, or other hazardous situations may be allowed on private property provided that such individual signs do not exceed three (3) square feet and are utilized exclusively for purposes intended.

6. **Private Signs.**
Private signs are prohibited within the public right-of-way of any street or easement.

7. **Flashing and Rotating Signs.**
Flashing signs and rotating signs are not permitted. Signs giving off an intermittent or rotating beam or ray of light are prohibited.

8. **Mobile Signs.**
Mobile signs on wheels are otherwise capable of being moved from place to place shall conform to the provisions of this Ordinance just as permanently affixed signs.

9. **Illuminated Signs.**
Illuminated signs shall be constructed and maintained so as not to direct light onto adjacent property or onto public right-of-ways. No illuminated sign shall be allowed on residentially developed property or distract motorists.

10. **Natural Items.**
Signs shall not be painted on a tree, stone, or other similar objects in any district.

11. **Roof Signs.**
Roof signs shall be prohibited in all districts.

12. **Inside Signs.**
The regulations contained herein do not apply to signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.

13. **Political Signs.**
Political signs for upcoming elections are allowed in any district or private property with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of the election or elections to which they applied.

14. **Construction Signs.**
Construction signs not exceeding thirty-two (32) square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.

15. **Advertising/Billboard Signs.**

A. Number. For parcels with right-of-way frontage of less than two hundred (200) feet only one (1) sign will be permitted. For parcels with over two hundred (200) feet of frontage or more up to two (2) signs will be permitted. No more than two (2) signs will be permitted on any one parcel of property.

B. Height. The maximum height of any advertising/billboard sign is twenty (20) feet (as measured from the highest point of the sign) above the average ground level at the base of the sign.

16. **Business Signs.**

A. Number. No more than one (1) freestanding or pylon sign.

B. Size. No more than thirty-five (35) square feet in surface area.

C. Height. No more than twenty (20) feet in height (as measured from the highest point of the sign) above the average grade will be permitted.

17. **Multi-faced Signs.**
Multi-faced signs shall not exceed two (2) times the allowed square footage of single-faced signs.

18. **Size - All Signs.**
Except where a lesser maximum size is specifically provided, the maximum size of any sign is four hundred (400) square feet of surface including border.

19. **Setbacks - All Signs.**

A. No sign may be erected closer than three hundred (300) feet from the inter-section of two streets, roads, or highways.

B. No sign may be erected within one hundred (100) feet of property used for church or school purposes (not including signs identifying the church or school and located on such property).

C. No advertising/billboard sign may be erected within one hundred feet (100) feet of adjoining property used for residential purposes.

D. No advertising/billboard sign may be erected within eight hundred (800) feet of any advertising/billboard sign on the same side of the right-of-way.

20. **Sign Design, Construction and Maintenance.**

A. **Required Marking on Signs.**

1.) Every sign, for which a permit is required, shall have painted in a conspicuous place thereon, in letters not less than one (1) inch in

height, the date of issuance, the permit number and voltage of any electrical apparatus used in connection therewith.

2.) Every outdoor advertising sign erected under the provisions of this ordinance shall be plainly marked with the name of the person, or firm erecting such sign.

B. **Projecting Signs.**
Except for marquee signs, signs shall in no case project from a building or structure to any point within two (2) feet upward from the building. No projecting sign shall be less than nine (9) feet above the sidewalk or the ground level. All projecting signs for which a permit is required shall be constructed entirely of fire resistant materials approved by the Zoning Administrator for this purpose. All metal supports and braces shall be galvanized or be of corrosive resistant material.

C. **Wall Signs.**
Signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached to the same by means of metal anchor, bolts or expansion screws of not less than three eighths (3/8) inch in diameter which shall be embedded at least five (5) inches. No wooden blocks or anchorage with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of wall signs attached to buildings with walls made of wood. No wall sign shall be entirely supported by an un-braced parapet wall.

D. **Sign Maintenance.**

1.) **Painting.**
The owner of any sign shall be required to have such sign properly painted at least once every two years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

2.) **Area Around Sign.**
The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the public right-of-way and also for a distance of six (6) feet behind and at the ends of said sign.

21. **Non-Conforming Signs.**
Option 1 - All signs not in conformity with the provisions of this Ordinance shall be removed by twelve (12) months of the effective date of this Ordinance or by existing agreement, whichever is longer. Option 2 - All signs not in conformity with the provisions of this Ordinance shall be considered non-conforming and subject to the provisions of Section 6 relating to non-conforming structures and uses.

22. **Obsolete Signs.**
Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found within ten (10) days after written notification from the Zoning Administrator.

23. **Unsafe or Dangerous Signs.**
Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

24. **Permit Length.**
If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

19.11 Mining and Extraction

1. **Purpose.**
The purpose of this section is to address issues which arise between mining and extraction and other adjoining land uses. In addition, this section is intended to ensure that land is rehabilitated after being subjected to mining and extraction uses.

2. **Administration.**
A Conditional Use Permit is required for all mining operations. Said permit will be valid for up to three (3) years after which a permit renewal shall be required. The County Board will also require a performance bond. Such bond must be in the amount of at least $2,500 per acre or an amount to be determined by the County and must be valid for a period of not less than one (1) year beyond the expiration date of the permit.

3. **Information Required.**
The following information must be provided by the person requesting a permit

for mining and extraction:

A. Name and address of the person requesting the permit.

B. The exact legal property description and acreage of the area to be mined.

C. The following maps of the site which must also include all areas within five hundred (500) feet of the site, and which must be drawn at a scale of one (1) inch to one hundred (100) feet:

1.) Map A-Existing Conditions to include:

a) Contour lines at reasonable intervals;
b) Existing vegetation;
c) Existing drainage and permanent water areas;
d) Existing structures;
e) Existing wells;

2.) Map B-Proposed Operations to include:

a) Structures to be erected;
b) Location of site to be mined showing depth of proposed excavation;
c) Location of tailings deposits showing maximum height of deposits;
d) Location of machinery to be used in the mining operation;
e) Location of storage of mined materials, showing height of storage deposits;
f) Location of vehicle parking;
g) Location of storage of explosives;
h) Erosion and sediment control structures;
i) Access Routes;

3.) Map C-End Use Plan to include:

a) Final grade of proposed site showing elevations and contour lines at reasonable intervals;
b) Location and species of vegetation to be replanted;
c) Location and nature of any structures to be erected in relation to the end use plan;

4.) A soil erosion and sediment control plan;

5.) A plan for dust and noise control;

6.) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the operation;

7.) A land reclamation plan;

8.) Any other information requested by the Planning Commission or the County Board;

D. **Renewal of Mining Permits.**
A public hearing will be conducted for renewal permit approval.

E. **Use Restrictions.**

1.) The crushing, washing, refining or processing other than the initial removal of material shall be considered a separate conditional use.

2.) In stone quarries the production or manufacturing of veneer stone sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site will be considered a separate conditional use.

3.) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered a separate conditional use.

4.) The Court may impose additional performance standards as part of the conditional use permit.

F. **Performance Standards.**

1.) **General Provisions.**

a.) Appearance, vegetation, weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

b.) **Parcel Size.**
No sand and gravel operation may be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same person.

c.) **Equipment.**
All equipment used for mining operations shall be maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

2.) **Water Resources.**

a.) Mining operations may not interfere with surface water drainage beyond the boundaries of the mining operation.

b.) Mining operations may not adversely affect the quality of surface or subsurface water resources.

c.) Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality of the water as it was at the point where it entered the mining site. The mining operator must perform any water treatment necessary to comply with this provision.

3.) **Safety Fencing.**
Any mining operation adjacent to a residentially developed area or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:

a.) **Holding or Ponding Areas.**
Where collections of water occur that are one and one half (1 1/2) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier of at least four (4) feet in height.

b.) **Steep Slopes.**
In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slope shall be barred by a fence or some similarly effective barrier at least four (4) feet in height.

4.) **Mining Access Roads.**
The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. The appropriate road authority must approve all open roads to the site.

5.) **Screening Barrier.**

a.) To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier must be maintained between the mining site and adjacent residentially and commercially developed properties.

b.) A screening barrier must be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

c.) Existing trees and ground cover along public road frontage shall be preserved, maintained, and supplemented for the depth of the roadside setback except where traffic safety requires cutting and trimming.

6.) **Setback.**

a.) Processing of minerals may not be conducted closer than one hundred (100) feet to the property line and not closer than five hundred (500) feet to any residential or commercial structure located prior to commencement of processing operations without the written consent of all owners and residents of said structures.

b.) Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property, unless written consent of all owners, is first secured in writing.

c.) Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

7.) **Appearance.**

a.) All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.

8.) **Hours of Operation.**

a.) All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. Any operations conducted between the hours of 7:00 p.m. and 7:00 a.m. shall require a separate conditional use permit.

b.) Such permits will only be granted for public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

9.) **Erosion Control.**

a.) All materials to be used for erosion control such as seed mixtures and so forth must be approved by the County.

b.) The County may require culverts, berms, or other measure for erosion control purposes.

10.) **Dust and Dirt.**

a.) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.

b.) All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

G. **Land Rehabilitation.**

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

1.) **Removal of Buildings, Structures and Plants.**

a.) All buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants within the following period of time:

(1) Within three (3) months after the termination of a mining operation;
(2) Within three (3) months after abandonment of such operation for a period of six (6) months; or
(3) Within three (3) months after expiration of a mining permit.

b.) A temporary extension may be granted by the County Board for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.

2.) **Surface Grading.**
The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.

3.) **Slopes.**
Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, otherwise approved by the Zoning Administrator.

4.) **Vegetation and Topsoil.**

a.) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding the site, and to a depth of at least three (3) inches.

b.) Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting must adequately retard soil erosion.

c.) Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks are sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

5.) **Finished Grade.**
The finished grade must be such that it will not adversely affect the surrounding land or future development of the site upon which the mining operations have been conducted. The mining site must be restored to a condition that allows the site to be utilized for the type of land use proposed by the reclamation plan approved by the County Board.

6.) **Notification and Final Inspection.**
After the applicant has completed the reclamation project, the applicant must notify the County Zoning Administrator. Upon notification, the Zoning Administrator will inspect the site to determine if it is in accordance with the approved reclamation

plan. If the site is not in accordance with the reclamation plan, the Zoning Administrator will notify the applicant of its deficiencies and the applicant must correct the deficiencies. If the site is in accordance with the approved reclamation plan, the Zoning Administrator will issue a letter of acceptance of the site to the applicant.

19.12 Telecommunication Towers.

1. **Purpose.**

The purpose of the Telecommunication Towers Section shall be to establish predictable and balanced regulations that protect the public, health, safety, and general welfare of the County. These regulations are intended to:

A. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Lac qui Parle County.

B. Minimize adverse visual effects of towers through careful design and site standards.

C. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful sighting, and setback requirements.

D. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the County.

2. **Tower and Antenna Design Requirements.**

Proposed or modified towers and antennas shall meet the following design requirements:

A. Towers and antennas must blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.

B. Platforms, catwalks, crow’s nests, or like structures, may not be attached to or constructed on any tower except during periods of construction or repair.

C. Towers and their antennas must be certified by a qualified and licensed

professional engineer to conform to applicable state structural building standards.

D. Towers and their antennas must be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

E. Metal towers must be constructed of, or treated with, corrosive resistant material.

3. **Tower Setbacks.**
Towers and all accessory structures or buildings must conform to the following minimum setback requirements:

A. Towers must be setback from all property lines an amount equal to the height of the structure.

B. Guy wires for towers may not be located closer than twenty-five (25) feet to any property line and must meet the setback of the underlying zoning district with respect to the public road right of way.

C. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet, must be provided around any tower and guy wires.

4. **Tower Location.**
Towers that are two hundred (200) feet or more in height must be located a distance of at least three (3) miles from any public or private airport.

5. **Co-location Requirements.**
All commercial wireless telecommunication towers erected, constructed, or located within the County must comply with the following requirements:

A. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.

B. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:

1.) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.

2.) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.

3.) Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

4.) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

C. Any proposed tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height, or for at least one (1) additional user if the tower is over sixty (60) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept towers mounted at varying heights.

D. An agreement stating that the site will be designed for not less than three (3) users with applicant and property owner commitments to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and County policy. The agreement must also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant within twelve (12) months of cessation of operations. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.

6. **Antennas Mounted on Existing Buildings or Towers.**

The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying zoning district and this section. A site plan and building plan must be submitted to the County as part of the zoning permitting process.

Where a tower is nonconforming due to the requirements of this Section, additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.

7. **Accessory Utility Buildings.**
All buildings and structures accessory to a tower must meet the following requirements:

A. Towers must be architecturally designed to blend in with the surrounding environment and setback limitations as established for each zoning district.

B. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

8. **Tower Lighting.**
Towers shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission, a state agency or the County. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

9. **Abandoned or Unused Towers.**
Abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the County may in its sole discretion either (i) have the costs of removal assessed against the property, (ii) subtract the cost of removal from any security deposit or bond posted by the owner, or (iii) seek a judgment against the owner personally for the cost of removal.

10. **Public Safety Telecommunications Interference.**
Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Lac qui Parle County public safety communications system before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the County at least ten (10) calendar days in advance of any changes and allow the County to monitor interference levels during the testing process.

11. **Signs and Advertising.**
The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

12. **Non-Conforming Towers.**
In order to avoid requiring new towers and to minimize the number of towers needed to serve the county the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:

A. Tower safety concerns including tower collapse, falling ice, and airplane traffic.

B. Land use character and history of the towers.

C. Comparative visual impact to the surrounding lands of the proposed tower height increase.

D. Disturbance or conflict with agricultural uses on the property.

E. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.

13. **Additional Submittal Requirements.**
In addition to the information required elsewhere, applications shall include the following information:

A. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity including the number and type of antennas that it can accommodate.

B. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

C. The location of all public and private airports within three (3) miles radius of the tower site.

D. Permittee must obtain FAA approval and/or provide documentation that FAA approval is not needed.

E. Permittee must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.

19.13 Restrictions on Agricultural Use

1. **Purpose.**

The purpose of the Restrictions on Agricultural Use section shall be to establish predictable and balanced criteria for the consideration of applications for conditional use permits for the placement of any easement or restrictive covenant upon agricultural land for conservation, environmental, habitat development or wildlife production purposes.

2. **Applicant Requirements.**

The County will only issue a permit for the placement of any easement or restrictive covenant upon agricultural land for conservation, environmental, habitat development or wildlife production purposes if the applicant meets the requirements set out in Section 14 of the Land Use Ordinances as well as the following requirements:

A. The applicant must demonstrate that the conditional use will not diminish the value of, impair the use of, or cause damage to adjacent properties.

B. The applicant must demonstrate that adequate measures have been taken to protect adjacent and nearby properties from any other harm which may result from the conditional use.

C. The applicant must include with its application a copy of the proposed restrictions to be placed on the property and any agreement between the applicant and any public or private person regarding future use of

the property.

3. **Permit Conditions.**
In addition to the criteria and conditions found in sections 14.02 and 14.03 of the Land Use Ordinance, the County Board, in approving a conditional use permit for the placement of any easement or restrictive covenant upon agricultural land for conservation, environmental, habitat development or wildlife production purposes, may impose conditions upon the use which are intended to protect adjacent or nearby properties as well as conditions required to protect the County as a whole. These conditions may include any of the following:

A. The Board may require the applicant to prepare or procure an engineering study and impact statement addressing the effect of the use on adjacent or nearby properties.

B. The Board may require the applicant to acquire easements or cooperative agreements from any potentially affected owner of adjacent or nearby properties.

C. The Board may require the applicant to post a bond or other security to ensure that money is available to remedy any problems that may result from the conditional use.

D. The Board may require the applicant to enter an undertaking to compensate the owners of adjacent or nearby properties actually damaged by the conditional use.

E. The Board may require the applicant to prepare a plan for identifying, preventing and abating nuisance conditions that may develop as a result of the conditional use.

F. The Board may require the applicant to reduce in size, re-locate, or otherwise modify the conditional use to protect adjacent or nearby properties. Such a modification may be in the total acres restricted, the method of restoration, the types of plant species to be maintained on the property, or the duration of the restriction.

G. The Board may require horizontal or vertical separation between the conditional use and adjacent properties.

H. The Board may require fencing, berming, vegetative cover, erosion

control or similar measures to protect adjacent or nearby properties.

I. The Board may require to place any other condition or require any other protective measure which the Board reasonably believes is necessary to protect adjacent or nearby properties and/or the County.

4. **Amendment.**
Any change in the conditional use including but not limited to enlargement of the conditional use, shall require that the applicant apply for an amendment to the conditional use permit. All standards and procedures applicable to the issuance of the original conditional use permit shall apply to an application for the amendment of an existing conditional use permit. The Board may apply additional conditions to the use as part of its approval of an amended conditional use permit.

20.00 SUBSURFACE SEWAGE TREATMENT SYSTEMS MANAGEMENT ORDINANCE 2014

20.00 SUBSURFACE SEWAGE TREATMENT SYSTEMS

20.01 GENERAL PROVISION

1. **PURPOSE AND AUTHORITY**

The purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the County Comprehensive Plan and the County Land Use Ordinance.

2. **INTENT**

It is intended by the County that this Ordinance will promote the following:

A. The protection of lakes, rivers and streams, wetlands, and groundwater in Lac qui Parle County essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.

B. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.

C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.

D. The appropriate utilization of privy vaults.

3. **JURISDICTION**
The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas or townships that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance.

4. **EFFECTIVE DATE**
The provisions set forth in this Ordinance shall become effective after its passage, approval, publication and recording in the office of the County Recorder.

5. **SCOPE**
This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, and privy vaults. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

20.02 ADMINISTRATION

1. **COUNTY ADMINISTRATION**

A. The Lac qui Parle County Environmental Services Office shall administer the SSTS program and all provisions of this ordinance.

B. The County's duties and responsibilities include, but are not be limited to, the following;

1.) Review all applications for SSTS.
2.) Issue all permits required in this Ordinance.
3.) Inspect all work regulated in this Ordinance.
4.) Investigate all written complaints regarding SSTS.
5.) Issue certificates of compliance or notices of noncompliance where applicable.
6.) Enact enforcement provisions of this Ordinance as necessary.
7.) Refer unresolved violations of this Ordinance to the County Attorney.
8.) Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.

9.) The County shall employ or retain qualified and appropriately licensed professionals to administer and operate the SSTS program.

10.) Submit annual reports to MPCA as required.

2. **STATE ADMINISTRATION**

When 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 or has a measured daily flow for a consecutive seven-day period which equals or exceeds 10,000 gallons per day, the owner shall make application for and obtain a State Disposal System permit from the MPCA.

3. **CITIES AND TOWNSHIPS ADMINISTRATION**

Any jurisdiction within the County that regulates SSTS must comply with the standards and requirements of this Ordinance. The standards and ordinance of the jurisdiction may be administratively and technically more restrictive than this Ordinance.

4. **LIABILITY**

The County's involvement in administration of this Ordinance does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the County or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this Ordinance or by reason of any standards, requirements, or inspections authorized by this Ordinance hereunder.

20.03 DEFINITIONS

Terms used in this Section shall have the same meaning as provided in the standards adopted by reference. For purposes of this Section, the words "must" and "shall" are mandatory and the words "may" and "should" are permissive.

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

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.

Class V Injection Well. A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than 20 persons per day. The US Environmental Protection Agency (EPA) and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

Cluster SSTS. A Subsurface sewage treatment system 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.

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 Lac qui Parle County Environmental Services Office.

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

Dwelling. Any building or place used or intended to be used by human occupants as a single-family or multi-family residence with no more than nine bedrooms and producing sewage. Dwelling does not include a single-family or multi-family residence that serves as both a domicile and a place of business if the business increases the volume of sewage above what is normal for a dwelling or if liquid waste generated no longer qualifies as sewage.

Existing Systems. Systems that have been previously inspected and approved by the local unit of government 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 MR Chapter 7080.1500 Subpart 4 D and E; and a system not abandoned in accordance with part 7080.2500.

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. Individual subsurface sewage treatment system that receives a sewage design flow of 5,000 gallons per day or less. ISTS also include holding tanks with a design flow of 10,000 gallons per day or less, as well as privies.

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

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

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

MPCA. The Minnesota Pollution Control Agency.

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

New Construction. Placement of a new structure or replacement structure that is served by pressurized water.

Non-pressurized SSTS. An SSTS that distributes sewage by gravity flow and does not utilize pumps for gravity distribution or pressure distribution.

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 Section.

Privy Vault. An aboveground structure with an underground cavity meeting the requirements of part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and grey water. A privy also means a non-dwelling 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 certified and listed on the MPCA SSTS database verifying specialty area endorsements applicable to the work being conducted.

Seasonal Saturation. 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 part 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.

Septage. Solids and liquids removed from an SSTS, and include 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/Sewage 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/Wastewater. 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.

Structure. Anything constructed or erected, the use of which requires location on the ground.

SWF. Shoreland areas, wellhead protection areas or systems serving food, beverage or lodging establishments.

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

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 in floodplains and privies or holding tanks.

Type III System. A subsurface sewage treatment system designed according to Minnesota Rules Chapter 7080.2300.

Type IV System. A subsurface sewage treatment system designed according to Minnesota Rules Chapter 7080.2350.

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

Winter Agreement. A binding agreement between a grantor and grantee when property is transferred between the months of November and April when frozen conditions prevent a field evaluation, compliance inspection or installation to the SSTS.

20.04 SSTS REQUIREMENTS

1. **ALL SSTS**
   Except as explicitly set forth in Section 20.04 (3), all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

2. **EXISTING PERMITS**
   Unexpired permits which were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, 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 Type 1 systems as defined by Minnesota Rule 7080.2200.

4. **UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT**

   A. SSTS Capacity Expansions
   Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

   B. Bedroom Addition
   Any addition to a structure that includes bedroom(s) that require a land use permit from the County shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860. Any required upgrades shall be completed within five years.

   C. Failure to Protect Groundwater
   An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 18 months upon receipt of a Notice of Noncompliance and must meet sizing requirements according to Minnesota Rule 7080.1860.

   D. Threat to Public Health or Safety
   An SSTS posing an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months upon receipt of a Notice of Noncompliance and must meet sizing requirements according to Minnesota Rule 7080.1860

   E. Abandonment
   Any SSTS, or any component thereof, which is no longer intended to be

used, must be abandoned in accordance with Minnesota Rule 7080.2500.

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

6. **CLASS V INJECTION WELLS**
All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

7. **SSTS PRACTITIONER LICENSING**

A. 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 Rule 7083.0700.

B. An MPCA license is not required of an individual who is constructing a non-pressurized SSTS on land that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a 24-hour notification to the Department for inspection is required.

8. **PROHIBITIONS**

A**.** **Occupancy or Use of a Building without a Compliant SSTS**
It is unlawful for any person to maintain, occupy, or use any building that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

C. Unless otherwise required by this Ordinance, the prohibitions described in Section 20 (8)(A) do not apply to systems or conditions existing at the time of adoption of this Ordinance.

9. ALTERNATIVE LOCAL STANDARDS ADOPTED BY REFERENCE

A. Adoption of Rule by Reference

1.) The County hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 -7081 in their entirety except as referenced under Section 20.04 (9)(B), except as otherwise expressly modified by this Ordinance.

2.) When "2006 version of Minnesota Rules Chapter 7080" is utilized, the reference is to the rules effective April 3, 2006, otherwise the County is referencing the current rules in effect.

B. Alternative Local Standards for New and Existing SSTS

1.) The County hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule7080.2150, Subp. 3(K).

10. DIFFERENCES IN STANDARDS

A. List of Different Adopted Standards

1.) In the shoreland district, obtaining a permit of any kind shall trigger septic compliance within 10 months of permit approval unless there is a current Certificate of Compliance on file that has not expired according to Section 20.06 (2)(F) and 20.06(3)(D) of this ordinance.

2.) At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than 100 feet.

3.) Class I sizing is required on all new construction. New construction will be defined as placement of a new structure or replacement structure that is served by pressurized water.

4.) The system's absorption area and mound absorption ratio must be sized according to either Table IX or IXa in the 2011 version of MN Rules, Chapter 7080.2150.

5.) Minimum septic tank sizing shall be a 1,500 gallon compartmentalized tank, multiple tanks in series or the use of an

effluent filter for the last baffle. The filter must be of such a design that when the filter is removed from the filter housing, the flow of water leaving the tank is not allowed. The first tank or compartment shall be no less than 1,000 gallons in size and applies to new and replacement SSTS. All other tank sizing shall follow Minnesota Rule 7080.1930.

6.) Pump tank sizing shall follow Minnesota Rule 7080.2100.

7.) A Certificate of Compliance will not be issued until the soils are verified by a licensed inspection business or qualified employee certified as an inspector.

8.) All dwellings shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system.

9.) Septic tanks for new and existing dwellings can be buried as deep as the tank manufacturer's maximum designed depth for the tank.

11. **COMPLIANCE CRITERIA FOR EXISTING SSTS**

For an SSTS built before April 1, 1996, and outside of areas designated as "SWF" – Systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments – there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

12. **HOLDING TANKS**

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS or for uses that are seasonal or intermittent in nature and will not use more than 150 gallons of water per day.

13. **VARIANCE REQUESTS**

A property owner may request a variance from the standards as specified in this ordinance pursuant to Section 13 of the Lac qui Parle County Land Use Ordinance.

A. State Agency Variance Requests

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. No permits will be issued by the County until all required State Agency variances have been approved.

20.05 PERMIT REQUIREMENTS

1. SSTS PERMITS

A. **Activities Not Requiring a SSTS Permit**

A SSTS permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.

B. **Activities Requiring a SSTS Permit**

A SSTS permit shall be obtained by the property owner or an agent of the property owner from the County prior to the installation, construction, replacement, modification, alteration, or capacity expansion of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the Department including 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. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

C. **SSTS Permit Requirements**

SSTS Permit applications shall be made on forms provided by the Department and signed by the applicant or applicant's agent, and must include the following information and documentation:

1. Applicant name, mailing address, and telephone number.
2. Property Identification Number, property address and legal description of property location.
3. Site Evaluation and Design Report shall be made on University of MN forms accepted by the Department.

D. **Application Review and Response**

The Department shall review a permit application and supporting documents according to Section 20.05(1)(B) of this Ordinance.

E. **Appeal**

The applicant may appeal any decision of the Department in accordance with Section 13 of the Lac qui Parle County Land Use Ordinance.

F. **Permit Expiration**

A Permit for a new SSTS is valid for a period of one year and may be

extended for an additional year with Department approval.

G. **Transferability**
A SSTS Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

2. **SSTS ASSESSMENT REQUIREMENTS**
For those SSTS without a management plan or operating permit according to the provisions of this Ordinance, the following provisions apply:

A. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water.

B. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25 percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole, if one exists. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks.

3. **OPERATING PERMIT**

A. An Operating Permit shall be required for the following SSTS:
1.) SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp. 3(K);
2.) SSTS serving three or more connections;
3.) Type 4 and Type 5 SSTS;
4.) SSTS that exceed a daily flow of 2,500 gallons per day; or,
5.) MSTS designed under Minnesota Rules Chapter 7081.

B. Operating Permits shall be a signed agreement between the Department and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.

C. A valid Operating Permit shall be considered a Certificate of Compliance if that system is in compliance with the requirements of the Operating Permit.

D. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.

E. An Operating Permit must be renewed prior to its expiration. If not renewed, the Department may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Section 20.04(4)(E).

F. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 20.05(3). The Department shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

G. A 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 accepted by the Department on or before the compliance reporting date stipulated in the operating permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the operating permit.

H. The Department may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.

I. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned.

J. At the Department's sole discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

20.06 COMPLIANCE INSPECTION PROGRAM

1. DEPARTMENT RESPONSIBILITY

It is the responsibility of the Department, or its agent, or a licensed inspector hired by property owner to perform installation inspections of new SSTS or upgrades of SSTS to assure that the requirements of this Ordinance are met.

A. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

B. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.

C. 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.

D. A signed winter agreement may be accepted in lieu of a compliance inspection for permit applications and designs to the Department between November 1 and April 30, at the Department's sole discretion, provided the required information is submitted to the Department by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance.

2. NEW CONSTRUCTION OR REPLACEMENT

A. New installation inspections must be performed on new construction or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to Section 20.06(1). SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.

B. It is the responsibility of the SSTS owner or the owner's agent to notify the Department or licensed inspector 24 hours prior to the installation inspection.

C. If the installer provides proper notice and the department or licensed inspector does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing within ten working days of the

installation.

D. A Certificate of Compliance for new SSTS construction or replacement shall be issued by the Department or another licensed inspector within 15 days of inspection if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.

E. The Certificate of Compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.

F. Certificates of Compliance for new construction or replacement shall remain valid for (5) five years from the date of issue unless the Department finds evidence of noncompliance.

2. EXISTING SYSTEMS

A. Compliance inspections shall be required when any of the following conditions occur if there is not a current Certificate of Compliance on file:

1.) When applying for a permit of any other kind in the shoreland district.
2.) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
3.) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a written complaint or other notice of a system malfunction.

B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA.

C. The Certificate of Compliance or Notice of Noncompliance must be submitted to the Department no later than 15 calendar days after the date the inspection was performed.

D. Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the Department finds evidence of noncompliance.

4. TRANSFER OF PROPERTY

A. Property on which a dwelling is located, or a tract of land on which a structure is required to have an SSTS shall not be transferred or sold unless the parties to the transaction have complied with one of the following: Property on which a dwelling is located, or a tract of land on which a structure is required to have an SSTS shall not be transferred or sold unless the parties to the transaction have complied with one of the following:

1.) A current Certificate of Compliance, as provided by Section 20.06(2)(F) or 20.06 (3)(D).
2.) A winter agreement, as provided by Section 20.06 (1)(D).
3.) An inspection provided by the seller to the buyer at or before the closing.
4.) The parties to the transaction shall specify in the purchase agreement whom shall be responsible for septic compliance and provide a copy of the agreement to the Department.

B. Exempt Transactions – The inspection need not be completed if the sale or transfer involves the following circumstances:

1.) The tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
2.) No Certificate of Real Estate Value need be filed with the County Auditor, as per MN Statues, Chapter 272.115.
3.) The sale or transfer completes a contract for deed entered into prior to the effective date of this Ordinance (May 6, 2014). This subsection applies only to the original vendor or vendee on such a contract.
4.) The property has dwellings or other buildings with running water that are connected to a municipal wastewater treatment system.

5. **VERTICAL SEPARATION REDUCTION**

Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15 percent reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS.

20.07 ENFORCEMENT

1. Any person who violates any of the provisions of this Ordinance or who makes any false statement on a Certificate of Compliance shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both, as defined by law.

2. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. **Each day of the violation shall constitute a separate offense.**

20.08 STATE NOTIFICATION OF VIOLATION

The Department may notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

20.09 FEES

From time to time, the County Board shall establish fees for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

20.10 DISPUTE RESOLUTION

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

20.11 DATE OF EFFECT

1. **Date of Effect**

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

   Adopted this 6th day of May, 2014.

Section 21 Floodplain District

21.00 Floodplain District

21.01 Statutory Authorization, Findings of Fact and Purpose.

1. **Statutory Authorization:** The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 394 for counties has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the County Commissioners of Lac qui Parle County, Minnesota does ordain as follows:

2. **Findings of Fact**.

   A. The flood hazard areas of Lac qui Parle 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.

   B. Methods Used to Analyze Flood Hazards: This Ordinance is based upon a reasonable method of analyzing flood hazards, which is consistent with the standards established by the Minnesota Department of Natural Resources.

   C. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

3. **Statement of Purpose.** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 21.01 (2) (A) by provisions contained herein.

21.02 General Provisions.

1. **Lands to Which Ordinance Applies.** This Ordinance shall apply to all lands within the jurisdiction of Lac qui Parle County shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

2. **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 Lac qui Parle County, Minnesota and Incorporated Areas as prepared by the Federal Emergency Management Agency and dated March 16, 2006, and all Flood Insurance Rate Map Panels therein dated March 16, 2006. The Official Zoning Map shall be on file in the Office of the Lac qui Parle County Auditor and the Lac qui Parle County Zoning Administrator Office.

3. **Regulatory Flood Protection Elevation.** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

4. **Interpretation.**

   A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

   B. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

5. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the

provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

6. **Warning and Disclaimer of Liability.** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of Lac qui Parle County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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

8. **Definitions.** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

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

   B. Basement – means any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

   C. Conditional Use – means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

      1.) Certain conditions as detailed in the zoning ordinance exist.

      2.) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

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

E. Farm Fence – A fence as defined by Minn. Statute §344.02 Subd. 1(a)-(d). A farm fence is not considered to be a structure under this ordinance. A zoning permit shall be required for fences in the Flood Fringe area of the Flood Plain that have the potential to "Obstruct Flood Flows" such as cyclone fences and rigid walls such as wood or concrete privacy fences. Other fences such as barb wire fences do not obstruct flood flows so they would not be regulated.

F. 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.

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

H. Flood Fringe – that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Lac qui Parle County.

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

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

K. "FPR" – means "Flood Proofing Regulations", as referenced in Section 21.10(4) (F)(5).

L. Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain, which are reasonably required to carry or store the regional flood discharge. For fences being proposed in the designated floodway section of the flood plain, a Conditional Use Permit shall be required for fences that "Obstruct Flood Flows".

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

N. Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

O. Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, stockpile, refuse, fill, structure, including restored wetland dikes/structures or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

P. Principal Use or Structure – means all uses or structures that are not accessory uses or structures.

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

R. Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

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

T. Regulatory Flood Protection Elevation – The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increase in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

U. Structure – anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 21.09(3)(A) of this Ordinance and other similar items. A farm fence is not considered to be a structure.

V. Substantial Damage – means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

X. Variance – means 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 for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

9. **Annexation.** The Flood Insurance Rate Map panels adopted by reference into Section 21.02 (2) above may include floodplain areas that lie outside of the corporate boundaries at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the unincorporated area after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the Lac qui Parle County Flood Plain Ordinance.

21.03 Establishment of Zoning Districts.

1. **Districts.**

   A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 21.02(2).

   B. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 21.02(2) as being within Zones AE, AO, or AH but being located outside of the floodway.

   C. General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A or Zones AE, AO, or AH without a floodway on the Flood Insurance Rate Map adopted in Section 21.02(2).

2. **Compliance.** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations, which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 21.04, 21.05 and 21.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

   A. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 21.09.

   B. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and

nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 21.11

C. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 21.10 of this Ordinance.

21.04 Floodway District (FW)

1. **Permitted Uses.**

A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting. A farm fence is a permitted use.

B. Industrial-commercial loading areas, parking areas, and airport landing strips.

C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

D. Residential lawns, gardens, parking areas, and play areas.

2. **Standards for Floodway Permitted Uses.**

A. The use shall have a low flood damage potential.

B. The use shall be permissible in the underlying zoning district if one exists.

C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

3. **Conditional Uses.**

A. Structures accessory to the uses listed in 21.04(1) above and the uses listed in 21.04(3) (B-H) below.

B. Extraction and storage of sand, gravel, and other materials.

C. Marinas, boat rentals, docks, piers, wharves, and water control structures.

D. Railroads, streets, bridges, utility transmission lines, and pipelines.

E. Storage yards for equipment, machinery, or materials.

F. Placement of fill or construction of fences that obstruct flood flows. This does not include farm fences.

G. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provision of Section 21.09(3) of this Ordinance.

H. Structural works for flood control such as levees, dikes (including restored/created wetlands) 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.

4. **Standards for Floodway Conditional Uses.**

A. **All Uses.** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

B. All floodway conditional uses shall be subject to the procedures and standards contained in Section 21.10(4) of this Ordinance.

C. The conditional use shall be permissible in the underlying zoning district if one exists.

D. Fill:

1.) 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.

2.) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

3.) As an alternative, and consistent with Subsection (2) 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 Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

E. Accessory Structures.

1.) Accessory structures shall not be designed for human habitation.

2.) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

a.) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

b.) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3.)

4.) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the FPR. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the FPR provided the accessory structure constitutes a minimal investment, does not exceed 500 square

feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

a.) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

b.) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

c.) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

F. Storage of Materials and Equipment.

1.) The storage and processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2.) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

G. 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. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

H. 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.

21.05 Flood Fringe District (FF)

1. **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 permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 21.05(2) and the "Standards for all Flood Fringe Uses" listed in Section 21.05(5)

2. **Standards for Flood Fringe Permitted Uses.**

A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 21.04(4)(E)(3).

C. 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 21.05(2)(A) of this ordinance.

D. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

E. The provisions of Section 21.05(5) of this Ordinance shall apply.

3. **Conditional Uses.** Any structure that is not elevated on fill or flood proofed in accordance with Section 21.05(2) (A-B) and/or any use of land that does not comply with the standards in Section 21.05(2)(C-D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 21.05(4) – 21.05(5) and 21.10(4) of this Ordinance.

4. **Standards for Flood Fringe Conditional Uses.**

A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 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:

1.) 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 FPR 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.

2.) 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:

a.) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than

one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

b.) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 and FP-4 classifications in the FPR and shall be used solely for building access, parking of vehicles or storage.

B. Basements, as defined by Section 21.02(8)(A)(2) of this Ordinance, shall be subject to the following.

1.) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

2.) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 21.05(5)(C) of this Ordinance.

C. All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the FPR. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the FPR and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP 4 classification shall not be permitted.

D. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the

plan must clearly specify the methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage of Materials and Equipment.

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

2.) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

F. The provisions of Section 21.05(5) of this Ordinance shall also apply.

5. **Standards for All Flood Fringe Uses.**

A. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses – accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

C. Manufacturing and Industrial Uses – measures shall be taken to minimize interference with normal plant operations especially along streams

having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 21.05(5)(B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

D. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation – FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

E. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

F. Standards for recreational vehicles are contained in Section 21.09(3).

G. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not 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.

21.06 General Flood Plain District

1. **Permissible Uses.**

A. The uses listed in Section 21.04(1) of this Ordinance shall be permitted uses.

B. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 21.06(2) below. Section 21.04 shall apply if the proposed use is in the Floodway District and Section 21.05 shall apply if the proposed use is in the Flood Fringe District.

2. **Procedures for Floodway and Flood Fringe Determinations within the General Flood Plain District.**

A. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1.) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

2.) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

3.) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

4.) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000-6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1.) Estimate the peak discharge of the regional flood.

2.) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over bank areas.

3.) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 21.04 and 21.05 of this Ordinance.

21.07 Subdivisions

1. **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 flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

2. **Floodway/Flood Fringe Determinations in the General Flood Plain District.** In the General Flood Plain District, applicants shall provide the information

required in Section 21.06(2) of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

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

21.08 Public Utilities, Railroads, Roads, and Bridges

1. **Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the FPR or elevated to above the regulatory flood protection elevation.

2. **Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Section 21.04 and 21.05 of this Ordinance. 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 and 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.

3. **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.

21.09 Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles

1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 21.07 of this Ordinance.

2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 21.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 21.05(5) (A), then replacement of manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

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

3. Recreational vehicles that do not meet the exemption criteria specified in Section 21.09(3) (A) below shall be subject to the provisions of the Ordinance and as specifically spelled out in Section 21.09(3)(C-D) below.

   A. Exemption – Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed Section 21.09(3)(B) below and further they meet the following criteria:

      1.) Have current licenses required for highway use.

      2.) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

      3.) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. Areas Exempted For Placement of Recreational Vehicles.

1.) Individual lots or parcels of record.

2.) Existing commercial recreational vehicle parks or campgrounds.

3.) Existing condominium type associations.

C. Recreational vehicles exempted in Section 21.09(3) (A) lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 21.04 and 21.05 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location should flooding occur.

D. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1.) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 21.05(5)(A) of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages on the 100-year or regional flood.

2.) All new or replacement recreational vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 21.10(4) of the Ordinance. 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, shall

demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 21.09(3)(A)(1-2) of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 21.08(3) of this Ordinance.

21.10 Administration

1. **Zoning Administrator.** A Zoning Administrator or other official designated by the Governing Body 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 Section 21.12 of the Ordinance.

2. **Permit Requirements.**

   A. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation or materials, or the storage of materials or equipment within the flood plain. No permit shall be required for farm fences.

   B. 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.

   C. 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.

D. 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 it's 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.

E. Construction and Use to be as provided on Application, 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 Section 21.12 of this Ordinance.

F. 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.

G. 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 flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

H. Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

I. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

3. Board of Adjustment.

A. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law. The members of the Board of Adjustment under this Ordinance shall be the same members as appointed to the Board of Adjustment under the Lac qui Parle County Zoning Ordinance**.**

B. Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

C. Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance 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 cities or counties as appropriate. 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 this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1.) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

2.) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3.) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Hearings. Upon filing with the Board of Adjustment an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties of interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten day notice of the hearing.

E. Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. 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 Section 21.10(4) (F), 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 Section 21.12. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in the community's official controls and also by Minnesota Statutes.

G. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

4. **Conditional Uses.** The Lac qui Parle County Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to Planning and Zoning Commission for consideration.

A. Hearings. Upon filing with the Lac qui Parle Planning and Zoning Administrator an application for a conditional use permit, the Lac qui Parle Planning and Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

B. Decisions. The Planning & Zoning Commission shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the Lac qui Parle County Planning & Zoning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 21.10(4)(F), 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 conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 21.12. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

C. Procedures to be followed by the Planning & Zoning Commission in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

1.) Require the applicant to furnish such of the following information and additional information as necessary by the Planning & Zoning

Commission for determining the suitability of the particular site for the proposed use:

a.) Plans in triplicate drawn to scale showing the nature, locations, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

b.) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

2.) Transmit one copy of the information described in subsection (1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

3.) Based upon the technical evaluation of the designated engineer or expert, the Planning & Zoning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

D. Factors upon which the decision of the Planning & Zoning Commission shall be based. In passing upon conditional use applications, the Planning & Zoning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

1.) The danger to life and property due to increased flood heights or velocities caused by encroachments.

2.) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

3.) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

4.) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5.) The importance of the services provided by the proposed facility to the community.

6.) The requirements of the facility for a waterfront location.

7.) The availability of alternative locations not subject to flooding for the proposed use.

8.) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9.) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10.) The safety of access to the property in times of flood for ordinary and emergency vehicles.

11.) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

12.) Such other factors which are relevant to the purposes of this Ordinance.

E. Time for Acting on Application. The Planning & Zoning Commission shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to 21.10(4)(C) of this Ordinance. The Planning & Zoning Commission shall render a written decision within sixty (60) days from the receipt of such additional information.

F. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above the purpose of this Ordinance, the Planning & Zoning 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:

1.) Modification of waste treatment and water supply facilities.

2.) Limitations on period of use, occupancy, and operation.

3.) Imposition of operational controls, sureties, and deed restrictions.

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

5.) Flood proofing measures, in accordance with the "Flood Proofing Regulations" (FPR) Section 209 thru 1406 of the 1972 Edition of "Flood Proofing Regulations", as developed by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., is hereby incorporated by reference as part of this ordinance. For the purpose of this ordinance, the classification of building or structures (FP-1 thru FP-4) shall be as defined in Section 210.1 of "Flood Proofing Regulations". Where definition of terms, as set forth in Section 301 of FPR, conflict in meaning with the definition of terms set forth in this ordinance, the latter shall apply.

21.11 Nonconforming Uses

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provision of the Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 21.02(8)(W)(2) of the Ordinance, shall be subject to the provisions of Sections 21.11(A-E) of this Ordinance.

   A. No such use shall be expanded, changed, enlarged, or altered in a way that increases it nonconformity.

   B. Any structural 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 FPR, except as further restricted in 21.11(1) (C) and 21.11(1)(F) below.

C. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of the Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must meet the standards of Section 21.04 or 21.05 of the Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

D. 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 that have been discontinued for a period of twelve (12) months.

E. If any nonconforming use or structure is substantially damaged, as defined in Section 21.02(8)(V) of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Section 21.04, 21.05 and 21.06 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

F. If a substantial improvement occurs, as defined in Section 21.02(8)(W) of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 21.04 or 21.05 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

21.12 Penalties for Violation

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

2. Nothing herein contained shall prevent the Planning & Zoning Commission from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

   A. In responding to a suspected Ordinance violation, the Zoning Administrator and local Government 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 Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

   B. When an Ordinance violation is either discovered by a 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 Community's plan of action to correct the violation to the degree possible.

   C. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance 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 Community. 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 thirty (30) days.

   D. 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 this Ordinance 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.

21.13 Amendments

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

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

21.14 **Effective Date:**

The Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Lac qui Parle County Commissioners
This 21st day of November, 2006

Section 22 Shoreland Management
Updated December 19, 2017

22.01 STATUTORY AUTHORIZATION AND POLICY

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

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

22.02 GENERAL PROVISIONS

1. **Jurisdiction.** The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 22.04 (1) of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than twenty-five (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 governing body, be exempt from this ordinance.

2. **Enforcement.** The County of Lac qui Parle is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 22.03 (2) of this ordinance.

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

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

22.03 ADMINISTRATION

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

2. **Permits.**

   A. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 22.08 (3) of this ordinance.

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

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

4. **Certificate of Zoning Compliance.** The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 22.03 (2) of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 22.02 (2) of this ordinance.

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

   A. A variance may not circumvent the general purposes and intent of this ordinance; and

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

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

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. There is adequate 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.

7. **Mitigation.**

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

1.) Advanced storm water runoff management treatment;

2.) Reducing impervious surfaces;

3.) Increasing setbacks from the ordinary high water level;

4.) Restoration of wetlands;

5.) Limiting vegetation removal and/or riparian vegetation restoration;

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

7.) Other conditions the zoning authority deems necessary.

B. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes,

conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

8. **Nonconformities**.

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

B. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 22.05 to 22.08 of this ordinance. Any deviation from these requirements must be authorized by a variance.

9. **Notifications to the Department of Natural Resources.**

A. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative at least thirty (30) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

B. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

C. Any request to change the shoreland management classification of public waters within Lac qui Parle County must be sent to the Commissioner or the Commissioner's designated representative for approval, and must include an official county resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

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

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

22.04 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

1. **Shoreland Classification System**.

A. Purpose. To ensure that shoreland development on the public waters of Lac qui Parle County is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

B. The "SHORELAND AREA" for the waterbodies listed in Sections 22.04 (C-D), and are shown on the Official Zoning Map.

C. Lakes are classified as follows:

Lake Classification	DNR Public Waters I.D. #	Legal Description
General Development		
None		
Recreational Development		
None		
Natural Environment		
Bailey Slough	*37021500*	*Sec. 29, SE ¼, Manfred Twp*
Boehnke Slough	*37017100*	*Sec. 5 & 6, Perry Twp*
Churches	*37001700*	*Sec. 26, Ten Mile Lake Twp*
Cory	*37010300*	*Sec. 28, Hamlin Twp*
Flinks Slough	*37000200*	*Sec. 36, Ten Mile Lake Twp*
Goodman Marsh	*37023100*	*Sec. 17, NE ¼, Manfred Twp*
Lac qui Parle(NW Bay)	*37004601*	
Lac qui Parle (SE Bay)	*37004602*	
Marsh Lake	*06000100*	
Moen Marsh	*37034100*	*Sec. 28, Hantho Twp*
Mud	*37020300*	*Sec. 30 & 31, Agassiz Twp*
North Marsh	*37002200*	*Sec. 36, Ten Mile Lake Twp*
Pegg	*37022400*	*Sec. 4, N ½, Augusta Twp*
Salt	*37022900*	*Sec. 5 & Sec. 8, Mehurin Twp*
Sumner WPA	*37031400*	*Sec. 23, SE ¼, Maxwell Twp*
Swanson	*37004300*	*Sec. 1, Maxwell Twp & Sec. 6, Ten Mile Lake Twp*
Taylor WPA	*37030000*	*Sec. 5, NE ¼, Manfred Twp*
Unnamed	*37002600*	*Sec. 5, Baxter Twp*
Unnamed	*37003000*	*Sec. 30, NE ¼, Baxter Twp*
Unnamed	*37005600*	*Sec. 22, SE ¼, Maxwell Twp*
Unnamed	*37007500*	*Sec. 8, E ½, Cerro Gordo Twp*
Unnamed	*37009300*	*Sec. 18, 19, & 20 Hantho Twp,*
Unnamed	*37009900*	*Sec. 24, NW ¼, Providence Twp*
Unnamed	*37010000*	*Sec. 33, SW ¼, Hamlin Twp; 116-44-5; 117-44-32*
Unnamed	*37010500*	*Sec. 32, NE ¼, Hamlin Twp*
Unnamed	*37010700*	*Sec. 7 & 18, Madison Twp*
Unnamed	*37011200*	*Sec. 26 & 27, E ½, Madison Twp*
Unnamed	*37011500*	*Sec. 32, SE ¼, Madison Twp*
Unnamed	*37013300*	*Sec. 36, Lake Shore North Twp*
Unnamed (NE Portion)	*37013401*	*Sec. 6 & 7, NW ¼, Madison Twp; 118-45-12*
Unnamed (SW Portion)	*37013402*	
Unnamed	*37014100*	*Sec. 3 & 4, Garfield Twp*
Unnamed	*37014800*	*Sec. 12 & 13, S ½, Arena Twp*

Unnamed	*37015400*	*Sec. 28, SW ¼, 29, 32, and Sec. 33, NW ¼, Arena Twp*
Unnamed	*37015600*	*Sec. 31, S ½, Arena Twp*
Unnamed	*37017200*	*Sec. 5 & 8, NW ¼, Perry Twp*
Unnamed	*37018200*	*Sec. 18, E ½, Perry Twp*
Unnamed	*37018300*	*Sec. 21, NW ¼, Perry Twp*
Unnamed	*37018400*	*Sec. 22 & 27, NW ¼, Perry Twp*
Unnamed	*37018500*	*Sec. 25, 26, 35, & 36, Perry Twp*
Unnamed	*37018600*	*Sec. 26 & 27, Perry Twp*
Unnamed	*37019400*	*Sec. 12, S ½, Agassiz Twp*
Unnamed	*37020600*	*Sec. 2, SE ¼, Manfred Twp*
Unnamed	*37020900*	*Sec. 2, 3, & 11, Manfred Twp*
Unnamed	*37021000*	*Sec. 5, 6, & 8, NW ¼, Manfred Twp*
Unnamed	*37021200*	*Sec. 10 & 11, NW ¼, Manfred Twp*
Unnamed	*37021600*	*Sec. 36, SE ¼, Mehurin Twp; 116-46-1 & 2*
Unnamed	*37021700*	*Sec. 2, NW ¼, Manfred Twp, 117-46-36*
Unnamed	*37022000*	*Sec. 20, N ½, Mehurin Twp*
Unnamed	*37023000*	*Sec. 19 & 20, Perry Twp*
Unnamed	*37023400*	*Sec. 34, E ½, Riverside Twp*
Unnamed	*37023600*	*Sec. 8, NW ¼, Hantho Twp*
Unnamed	*37023900*	*Sec. 13, NW ¼ & Sec. 14, NE ¼, Agassiz Twp; 120-45-11 & 12*
Unnamed	*37024000*	*Sec. 16 & 21, N ½, Freeland Twp*
Unnamed	*37024100*	*Sec. 36, Mehurin Twp*
Unnamed	*37025100*	*Sec. 31, Walter Twp & Sec. 6, Arena Twp; 118-45-5 & 8*
Unnamed	*37025400*	*Sec. 17, SE ¼, Arena Twp*
Unnamed	*37027500*	*Sec. 4, 9, 10, & 15 Freeland Twp*
Unnamed	*37029300*	*Sec. 16 & 17, Hantho Twp*
Unnamed	*37032500*	*Sec. 24, SW ¼, Providence Twp*
Unnamed	*37033400*	*Sec. 33, S ½, Walter Twp*

D. Rivers and Streams are classified as follows:

River and Stream Classification	Legal Description
Wild Scenic and Recreational Rivers	
Minnesota River	LqP Dam in Section 13, Twp 118, Rg 42 to County Line in Section 13, Twp 117, Rg 41
Transition	
Minnesota River	Section 27, Twp 121, Rg 46 to Section 30, Twp 121, Rg 45; Section 11, Twp 120, Rg 45 to LqP Dam in Section 13, Twp 118, Rg 42
Agricultural	
Minnesota River (MR)	*Section 32, Twp 121, Rg 45 to Section 10, Twp 120, Rg 45*
Unnamed Tributary	*Section 36, Twp 116, Rg 42 to Section 36, Twp 116, Rg 42*
Unnamed to MR	*Section 35, Twp 117, Rg 41 to Section 13, Twp 117, Rg 41*
Unnamed to MR	*Section 15, Twp 117, Rg 41 to Section15, Twp 117, Rg 41*
Unnamed to MR	*Section 8, Twp 117, Rg 41 to Section 8, Twp 117, Rg 41*
Lac qui Parle River (LQPR)	*Section 35, Twp 116, Rg 44 to Section 14, Twp 118, Rg 42*
Ten Mile Creek	*Section 2, Twp 117, Rg 42 to Section 26, Twp 118, Rg 42*
Canby Creek	*Section 35, Twp 116, Rg 45 to Section 32, Twp 116, Rg 44*
Unnamed to LQPR	*Section 22, Twp 116, Rg 44 to Section 15, Twp 116, Rg 44*
	Section 23, Twp 116, Rg 44 to Section 19, Twp 116, Rg 43
Unnamed to LQPR	*Section 21, Twp 117, Rg 45 to Section 1, Twp 116, Rg 44*
Unnamed to unnamed	*Section 11, Twp 116, Rg 44 to Section 2, Twp 116, Rg 44*
Unnamed to Unnamed	*Section 6, Twp 116, Rg 44 to Section 5, Twp 116, Rg 44*
West Branch Lac qui Parle River (WBLQPR)	*Section 31, Twp 116, Rg 46 to Section 22, Twp 117, Rg 43*
Florida Creek	*Section 31, Twp 116, Rg 45 to Section 17, Twp 117, Rg 45*
Cobb Creek (CC)	*Section 36, Twp 116, Rg 46 to Section 29, Twp 117, Rg 45*
Unnamed to CC	*Section 21, Twp 116, Rg 46 to Section 11, Twp 116, Rg 46*
Unnamed to CC	*Section 33, Twp 116, Rg 46 to Section 23, Twp 116, Rg 46*
Unnamed to CC	*Section 34, Twp 116, Rg 46 to Section 23, Twp 116, Rg 46*
Lost Creek (LC)	*Section 17, Twp 117, Rg 46 to Section 24, Twp 117, Rg 46*
Unnamed to LC (aka Crow Creek)	*Section 6, Twp 116, Rg 46 to Section 22, Twp 117, Rg 46*
Unnamed to Unnamed	*Section 20, Twp 117, Rg 46 to Section 22, Twp 117, Rg 46*
Unnamed to WBLQPR	*Section 8, Twp 117, Rg 46 to Section 18, Twp 117, Rg 45*
Unnamed to Tributary	*Section 29, Twp 118, Rg 46 to Section 14, Twp 118, Rg 46*
Unnamed to Unnamed	*Section 32, Twp 118, Rg 46 to Section 36, Twp 118, Rg 46*
Unnamed to Unnamed	*Section 3, Twp 117, Rg 46 to Section 26, Twp 118, Rg 46*
Unnamed to WBLQPR	*Section 2, Twp 118, Rg 46 to Section 1, Twp 118, Rg 46*
	Section 6, Twp 118, Rg 45 to Section 23, Twp 117, Rg 44

Unnamed to LQPR	*Section 24, Twp 118, Rg 43 to Section 30, Twp 118, Rg 42*
Unnamed to LQPR	*Section 22, Twp 118, Rg 42 to Section 27, Twp 118, Rg 42*
Emily Creek (EC)	*Section 21, Twp 119, Rg 43 to Section 24, Twp 119, Rg 43*
Unnamed to EC	*Section 29, Twp 119, Rg 43 to Section 28, Twp 119, Rg 43*
Unnamed to EC	*Section 8 (Basin 236), Twp 119, Rg 43, to Section 28, Twp 119, Rg 43*
Unnamed to Marsh Lake	*Section 24, Twp 120, Rg 45 to Section 24, Twp 120, Rg 45*
	Section 13, Twp 120, Rg 45 to Section 18, Twp 120, Rg 44
Yellow Bank River (YBR)	*Section 25, Twp 120, Rg 46 to Section 3, Twp 120, Rg 45*
Unnamed to YBR	*Section 30, Twp 119, Rg 45 to Section 8, Twp 119, Rg 45*
	Section 19, Twp 120, Rg 45 to Section 24, Twp 120, Rg 46
Unnamed to Unnamed	*Section 17, Twp 120, Rg 45 to Section 19, Twp 120, Rg 45*
South Fork Yellow Bank River (SFYBR)	*Section 8, Twp 118, Rg 46 to Section 25, Twp 120, Rg 46*
Unnamed to SFYBR	*Section 34, Twp 119, Rg 46 to Section 14, Twp 119, Rg 46*
Unnamed to SFYBR	*Section 32, Twp 119, Rg 46 to Section 28, Twp 119, Rg 46*
North Fork Yellow Bank River	*Section 17, Twp 120, Rg 46 to Section 25, Twp 120, Rg 46*
Unnamed to YBR	*Section 8, Twp 120, Rg 46 to Section 12, Twp 120, Rg 46*
Forested	
None	
Remote	
None	
Urban	
None	

E. All public rivers and streams shown on the Public Waters Inventory Map for Lac qui Parle County, a copy of which is adopted by reference, not given a classification in Section 22.04 (D), shall be considered "Tributary."

2. **Land Uses.**

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

B. Shoreland district land uses listed in Sections 22.04, (C and D), are regulated as:

1.) Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;

2.) Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 22.03 (6), of this ordinance and any additional conditions listed in this ordinance; and

3.) Not permitted uses (N). These uses are prohibited.

C. Land uses for lake classifications:

Land Uses	**General Development**	**Recreational Development**	**Natural Environment**
Single residential	P	P	P
Duplex, triplex, quad residential	P	P	C
Residential PUD	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C
Commercial	P	P	C
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of 22.10 of this ordinance are satisfied.	C	C	C
Parks & historic sites	C	C	C
Public, semipublic	P	P	C
Industrial	C	C	N
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots - New	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C
Forest management	P	P	P
Forest land conversion	C	C	C
Extractive use	C	C	C
Mining of metallic minerals and peat	P	P	P

D. Land uses for river and stream classifications:

Land Uses	Remote	Forested	Transition	Agriculture	Urban	Tributary
Single residential	P	P	P	P	P	P
Duplex, triplex, quad residential	C	P	P	P	P	P
Residential PUD	C	C	C	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C	C	C	C
Commercial	C	C	C	C	P	P
Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 22.10 of this ordinance are satisfied.	C	C	C	C	C	C
Parks & historic sites	C	C	C	C	C	C
Public, semipublic	C	C	C	C	P	P
Industrial	N	C	N	N	C	C
Agricultural: cropland and pasture	P	P	P	P	P	P
Agricultural feedlots - New	N	N	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
Forest land conversion	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P	P	P

22.05 SPECIAL LAND USE PROVISIONS

1. **Commercial, Industrial, Public, and Semipublic Use Standards.**

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

1.) The use complies with provisions of Section 22.07;

2.) The use is designed to incorporate topographic and vegetative screening of parking areas and structures;

3.) 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

4.) Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:

a.) Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and

b.) Signs placed within the shore impact zone are:

(1) No higher than ten feet above the ground, and no greater than 32 square feet in size; and

(2) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and

c.) Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.

B. Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. **Agriculture Use Standards.**

A. Buffers.

1.) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses

if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices based on the Natural Resources Conservation Service Field Office Technical Guides (FOTG), practices approved by the Board of Water and Soil Resources (BWSR), or practices based on local conditions. Approved by the local soil and water conservation district that are consistent with the FOTG.

2.) The shore impact zone for parcels with permitted agricultural land uses is an area with a fifty (50) foot average width and a thirty (30) foot minimum width, as measured from the ordinary high water level if identified, or the top or crown of bank or normal water level as proved in Minnesota Statutes, section 103F.48, Subd. 3 (c), whichever is applicable.

B. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

1.) Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;

2.) Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of one thousand (1,000) animal units or more; and,

3.) Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

3. **Forest Management Standards**.

A. The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.

B. Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

4. **Extractive Use Standards.** Extractive uses are conditional uses and must meet the following standards:

A. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:

1.) Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;

2.) Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and

3.) Clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.

5. **Metallic Mining Standards**. Mining of metallic minerals and peat is a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

22.06 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

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

2. **Lot Area and Width Standards.** After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 22.06 (E) and 22.06 (F), subject to the following standards:

A. Only lands above the ordinary high water level can be used to meet lot area and width standards;

B. Lot width standards must be met at both the ordinary high water level and at the building line;

C. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;

D. Residential subdivisions with dwelling unit densities exceeding those in Sections 22.06 (E) and 22.06 (F), are allowed only if designed and approved as residential PUDs under Section 22.10 of this ordinance; and

E. Lake Minimum Lot Area and Width Standards:

General Development – No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
General Development – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Recreational Development – No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Recreational Development – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135

Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
Natural Environment – No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Natural Environment – Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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

F. River/Stream Minimum Lot Width Standards. There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

	Remote	**Forested**	**Transition**	**Agricultural**	**Urban & Tributary**	
					No Sewer	Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

3. **Special Residential Lot Provisions.**

A. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and 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 twenty-five (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 Sections 22.06 (E) and 22.06 (F), provided the following standards are met:

1.) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;

2.) A guest cottage must not cover more than seven-hundred (700) square feet of land surface and must not exceed fifteen (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. Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

1.) The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;

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 a percentage of the requirements for riparian residential lots

for each watercraft beyond six (6), consistent with the following table:

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

3.) The lot 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:

a.) Specify which lot owners have authority to use the access lot;

b.) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;

c.) 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;

d.) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and

e.) 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.

4. **Placement, Height, and Design of Structures.**

A. Placement of Structures and Sewage Treatment Systems on Lots. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:

1.) *OHWL Setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet the following setbacks from the Ordinary High Water Level (OHWL), except that one (1) water-oriented accessory structure or facility, designed in accordance with Section 22.07 (3), of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

Classification	**Structures**		**Sewage Treatment System**
	No Sewer	**Sewer**	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
Rivers and Streams			
Remote	200	200	150
Forested and Transition	150	150	100
Agriculture, Urban and Tributary	100	50	75

2.) *Setback averaging.* Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;

3.) *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

a.) The structure existed on the date the structure setbacks were established;

b.) 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;

c.) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or is no closer than thirty (30) feet from the OHWL, whichever is more restrictive; and

d.) The deck is constructed primarily of wood, and is not roofed or screened.

4.) *Additional structure setbacks.* Structures must also meet the following setbacks, regardless of the waterbody classification:

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

5.) *Bluff Impact Zones.* Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

B. Lowest Floor Elevation. 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 (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;

2.) For rivers and streams, by placing the lowest floor at least three (3) feet above the highest known flood elevation. If data are not available, by placing the lowest floor at least three (3) feet above

the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain 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.) If the structure is flood proofed instead of elevated under items A and B above, then it must be flood proofed in accordance with Minnesota Rules, part 6120.5900 Subp. 3 (D).

C. 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.

5. **Water Supply and Sewage Treatment.**

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

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

22.07 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

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

A. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;

B. 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;

C. Private facilities must comply with the grading and filling provisions of Section 22.08 (3), of this ordinance; and

D. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

2. **Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:

A. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;

B. Landings for stairways and lifts on residential lots must not exceed thrity-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;

C. Canopies or roofs are not allowed on stairways, lifts, or landings;

D. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

E. Stairways, lifts, and landings 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

F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of 22.07 (2) (A to E) and the requirements of Minnesota Rules, Chapter 1341.

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

A. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. The structure or facility may include patios or detached decks not exceeding eight (8) feet above grade at any point;

B. The structure or facility is not in the Bluff Impact Zone;

C. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;

D. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;

E. 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;

F. The roof may be used as an open-air deck with safety rails, but must not be enclosed or used as a storage area;

G. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;

H. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the shoreline; and

I. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 22.06, (4) (C), 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.

22.08 VEGETATION AND LAND ALTERATIONS

1. **Purpose.** Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

2. **Vegetation Management.**

A. Removal or alteration of vegetation must comply with the provisions of this subsection except for:

1.) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;

2.) The construction of public roads and parking areas if consistent with Section 22.07 (1), of this ordinance;

3.) Forest management uses consistent with Section 22.05 (3), of this ordinance; and

4.) Agricultural uses consistent with Section 22.05 (2), of this ordinance.

B. Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 22.05 (3), of this ordinance.

C. Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1.) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2.) Existing shading of water surfaces along rivers is preserved;

3.) Cutting debris or slash shall be scattered and not mounded on the ground; and

4.) Perennial ground cover is retained.

D. Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

E. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

3. **Grading and Filling.**

A. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 22.07 (1), of this ordinance.

B. Permit Requirements.

1.) Grading, filling and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 22.08 (3) (C), of this ordinance must be incorporated into the permit.

2.) For all other work, a grading and filling permit is required for:

a.) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

b.) the movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

C. Grading, filling and excavation activities must meet the following standards:

1.) Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;

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

a.) Limiting the amount and time of bare ground exposure;

b.) Using temporary ground covers such as mulches or similar materials;

c.) Establishing permanent vegetation cover as soon as possible;

d.) Using sediment traps, vegetated buffer strips or other appropriate techniques;

e.) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;

f.) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;

g.) Fill or excavated material must not be placed in bluff impact zones;

h.) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G;

i.) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

j.) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:

(1) the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical;

(2) the landward extent of the riprap is within ten (10) feet of the ordinary high water level; and

(3) the height of the riprap above the ordinary high water level does not exceed three (3) feet.

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

4. **Stormwater Management**.

A. General Standards:

1.) When possible, existing natural drainage ways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

2.) 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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.

3.) When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. Specific Standards:

1.) Impervious surfaces of lots must not exceed twenty-five (25) percent of the lot area.

2.) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

3.) New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

22.09 SUBDIVISION/PLATTING PROVISIONS

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

2. **Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 22.10 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its

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

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

4. **Water and Sewer Design Standards.**

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

   B. Each lot must include at least two (2) soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

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

5. **Information requirements.**

   A. Topographic contours at ten (10) foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

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

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

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

   E. Location of one hundred (100) year flood plain areas and floodway districts from existing adopted maps or data; and

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

6. **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.

7. **Platting.** All subdivisions that cumulatively create five (5) or more lots or parcels that are two and one-half (2 1/2) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

8. **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 22.06 (3) (C), of this ordinance.

22.10 PLANNED UNIT DEVELOPMENTS (PUDs)

1. **Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

2. **Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 22.06 (2), of this ordinance is allowed if the standards in this Section are met.

3. **Processing of PUDs.** Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 22.10 (5). Approval cannot occur until all applicable environmental reviews are complete.

4. **Application for a PUD**. The applicant for a PUD must submit the following documents prior to final action on the application request:

   A. Site plan and/or plat showing:

      1.) Locations of property boundaries;

2.) Surface water features;

3.) Existing and proposed structures and other facilities;

4.) Land alterations;

5.) Sewage treatment and water supply systems (where public systems will not be provided);

6.) Topographic contours at ten (10) foot intervals or less; and

7.) Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

B. A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section 22.10 (6), of this ordinance.

C. Deed restrictions, covenants, permanent easements or other instruments that:

1.) Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

2.) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 22.10 (6), of this ordinance.

D. A master plan/site plan describing the project and showing floor plans for all commercial structures.

E. Additional documents necessary to explain how the PUD will be designed and will function.

5. **Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

A. <u>Step 1. Identify Density Analysis Tiers.</u> Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)
General Development Lakes – 1st tier	200	200
General Development Lakes – All other tiers	267	200
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers	300	300

B. Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

C. Step 3. Determine Base Density:

1.) For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

2.) For commercial PUDs:

a.) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

(1) For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

(2) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

(a) For manufactured homes, use the area of the manufactured home, if known, otherwise use one thousand (1,000) sf.

(b) For recreational vehicles, campers or tents, use four hundred (400) sf.

b.) Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 22.10 (5), (C-2)), (1).

	Floor Area/Dwelling Site Area Ratio		
Inside Living Floor Area or Dwelling Site Area (sf)	**General Development Lakes w/Sewer – All tiers** **General Development Lakes w/no sewer – 1st tier** **Agricultural, Urban and Tributary Rivers**	**General Development Lakes w/No sewer – All other tiers** **Recreational Development Lakes** **Forested and Transition Rivers**	**Natural Environment Lakes** **Remote Rivers**
≤ 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
≥ 1,500	.150	.075	.038

c.) Multiply the suitable area within each tier determined in Section 10.52 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

d.) Divide the total floor area or dwelling site area for each tier calculated in Section 22.10 (5), (C-2), (3), by the average inside living floor area for dwelling units or

dwelling site area determined in Section 22.10 (5), (C-2), (1). This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

3.) Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.

4.) All PUDs with densities at or below the base density must meet the design standards in Section 22.10 (6).

D. Step 4. Determine if the Site can Accommodate Increased Density:

1.) The following increases to the dwelling unit or dwelling site base densities determined Section 22.10 (5), (C), are allowed if the design criteria in Section 22.10 (6), of this ordinance are satisfied as well as the standards in Section 22.10 (5), (D-2).

Shoreland Tier	**Maximum density increase within each tier (percent)**
1st	50
2nd	100
3rd	200
4th	200
5th	200

2.) Structure setbacks from the ordinary high water level:

a.) Are increased to at least fifty (50) percent greater than the minimum setback; or

b.) The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least twenty-five (25) percent greater than the minimum setback.

6. **Design Criteria.** All PUDs must meet the following design criteria.

A. General Design Standards.

1.) All residential planned unit developments must contain at least five (5) dwelling units or sites.

2.) On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 22.06 (5), of this ordinance. Sewage treatment systems must meet the setback standards of Section 22.06 (4) (A-1) of this ordinance.

3.) Dwelling units or dwelling sites must be clustered into one (1) or more groups and located on suitable areas of the development.

4.) Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 22.06 (3) and 22.06 (4).

5.) Shore recreation facilities:

a.) Must be centralized and located in areas suitable for them based on a suitability analysis.

b.) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

c.) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

6.) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

7.) Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

8.) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 22.07 (3), of this ordinance and are centralized.

B. Open Space Requirements.

1.) Open space must constitute at least fifty (50) percent of the total project area and must include:

a.) Areas with physical characteristics unsuitable for development in their natural state;

b.) Areas containing significant historic sites or un-platted cemeteries;

c.) Portions of the shore impact zone preserved in its natural or existing state as follows:

(1) For existing residential PUD's, at least fifty (50) percent of the shore impact zone.

(2) For new residential PUDs, at least seventy (70) percent of the shore impact zone.

(3) For all commercial PUD's, at least fifty (50) percent of the shore impact zone.

2.) Open space may include:

a.) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public; and

b.) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

3.) Open space shall not include:

a.) Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and

b.) Commercial facilities or uses.

c.) Land below the OHWL of Public Waters.

C. Open Space Maintenance and Administration Requirements.

1.) Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants,

permanent easements, public dedication, or other equally effective and permanent means The instruments must prohibit:

a.) Commercial uses (for residential PUD's);

b.) Vegetation and topographic alterations other than routine maintenance;

c.) Construction of additional buildings or storage of vehicles and other materials; and

d.) Uncontrolled beaching of watercraft.

2.) Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:

a.) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;

b.) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;

c.) Assessments must be adjustable to accommodate changing conditions; and

d.) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. Erosion Control and Stormwater Management.

1.) Erosion control plans must be developed and must be consistent with the provisions of Section 22.08 (3) of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

2.) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five (25) percent of the tier area, except that thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development

lakes with an approved stormwater management plan and consistency with Section 22.08 of this ordinance.

7. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:

   A. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;

   B. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;

   C. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

      1.) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

      2.) Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and

      3.) Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

   D. Existing dwelling unit or dwelling site densities that exceed standards in Section 22.10 (5), of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

23.00 FEEDLOT ORDINANCE

23.01 Permits.

No person shall operate and/or construct an animal feedlot with fifty (50) or more animal units (ten (10) or more animal units within a Shoreland Management District) without first obtaining a Certificate of Compliance, making application with the appropriate state and/or local authorities and meeting the standards set forth in this Ordinance and that of MPCA Chapter 7020 Rules and Updates. All other applications may be considered for a Conditional Use Permit issued by the County.

1. **Certificate of Compliance.**
   The Feedlot Administrator shall issue a Certificate of Compliance for each activity requiring a permit as specified in the Ordinance. This certificate will specify that the feedlot conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorization by permit shall be punishable as provided by this Ordinance.

2. **Interim Permit.**
   The Feedlot Administrator may issue an Interim Permit for a feedlot of three hundred (300) or less animal units.

3. **Local, State and Federal Permits.**
   Prior to granting a permit, the Feedlot Administrator shall determine that the applicant has obtained all necessary federal, state and local permits.

4. **Validity.**
   A Certificate of Compliance will remain valid if there are no changes in the operation and the operator is in compliance with the Ordinance and the current laws and regulations. The owner of a proposed or existing animal feedlot of fifty (50) or more animal units (ten (10) or more animal units with in Shoreland Management District) shall make an application to the MPCA for a Certificate of Compliance when any of the following conditions exist:

   A. A new feedlot is proposed where a feedlot or animal facility (increase animal units);

   B. Expansion of an existing feedlot or animal facility (increase animal units);

   C. Remodeling or modification of an existing feedlot or animal facility;

   D. A change in the operation of an animal feedlot that would affect the

storage, handling, utilization, or disposal of animal manure;

E. A change of ownership;

F. An existing feedlot is to be restocked after being abandoned for five (5) or more years;

G. An inspection reveals that the feedlot is creating a potential pollution hazard;

H. A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulation; and

I. Other actions as specified in the Ordinance.

23.02 Appeal

Appeals of decisions of the Feedlot Administrator shall be heard by the Board of Adjustment provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the Feedlot Administrator. The following procedure shall be followed:

1. **Application.**
The person making the appeal shall apply for a hearing before the Board of Adjustment on forms provided by the Feedlot Administrator.

2. **Notice and Hearing.**
The Board of Adjustment shall, within thirty (30) days after receipt of the completed application, schedule a hearing on the appeal.

A. At least ten (10) days prior to the hearing a notice shall be published in the official county newspaper.

B. The Board of Adjustment shall make their decisions within ten (10) days of exceptional circumstances, strict enforcement of the provisions of this ordinance would cause an unnecessary hardship.

23.03 Variances.

An application for a Variance may occur where the applicant determines that the reason of exceptional circumstances, strict enforcement of the provisions of this Ordinance would cause an unnecessary hardship.

1. **Application and Hearing Procedures.**

The following application and hearing process shall be followed in applying for and deciding requests for a Variance.

A. A person desiring a Variance shall contact the Feedlot Administrator and obtain, complete and submit an application form for a Variance.

B. A public notice that a specific Variance will be considered at the next scheduled meeting of the Board of Adjustment shall be placed in the official county newspaper at least ten (10) days before the public hearing. In addition, the Feed lot Administrator shall notify the following of the time, place and purpose of the public hearing(s):

1.) The applicant;

2.) The Clerk and Chairperson of the Township in which the property is located;

3.) The Clerk of any City within two (2) miles;

4.) The owners of any lot(s) or parcel(s) of land affected within the separation setbacks as defined by the provisions of this Ordinance;

5.) The owner(s) of record within one-half (1/2) mile of the affected property.

C. Prior to granting a Variance, the Feedlot Administrator shall determine that the applicant has obtained all necessary local, state and federal permits.

D. The decision to approve or disapprove the granting of a Variance shall be made no later than thirty (30) days from the date of the public hearing provided that an extension of time may be granted with the written concurrence of the applicant.

E. The Board of Adjustment must find the following four (4) conditions present and they must be sustained with evidence presented by the applicant before a Variance can be approved:

1.) The property cannot be put to a reasonable use under the conditions allowed by the Ordinance;

2.) The conditions causing the hardships are unique to the property and were not created by the landowner;

3.) The granting of the Variance will not essentially alter the character of the locality;

4.) The granting of the Variance is consistent with the provisions of the Ordinance.

2. **Granting of Variances.**
Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. A Variance shall not circumvent the general purposes and intent of this Ordinance. No Variance may be granted which 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 shall also consider if the property owner has reasonable use of the land without the Variance, if the Variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

3. **Decisions.**
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.

23.04 Conditional Use Permits
A Conditional Use Permit may only be issued for those conditional uses specifically identified in the Ordinance.

1. **Application and Hearing Procedures.**
The following application and hearing process shall be followed in applying for and deciding requests for a Conditional Use Permit.

A. A person desiring a Conditional Use Permit shall contact the Feedlot Administrator and obtain an application form for a Conditional Use Permit. The following evaluation criteria and conditions apply but are not limited to:

1.) Evaluation Criteria. A thorough evaluation of the existing or proposed site shall be conducted by the Feedlot Administrator and/or the Planning Commission, and shall include but is not limited to an onsite inspection, to ensure:

a.) The prevention of possible pollution of public waters, both during and after constructions;

b.) An adequate animal manure plan is present;

c.) The Conditional Use Permit is consistent with the provisions of the Ordinance.

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

a.) Increased setbacks;

b.) Limitations on the number of animal units;

c.) Conditions that are consistent with the provisions of the Ordinance.

B. The application form is completed by the applicant and submitted together with all required and necessary information to the Feedlot Administrator for review and comment. When the application has been completed and reviewed, the Feedlot Administrator, at the direction of the Planning Commission, shall schedule a public hearing. Notice shall be given in the official county newspaper at least ten (10) days prior to the hearing. In addition, the Feedlot Administrator shall notify the following of the time, place and purpose of the public hearing:

1.) The applicant;

2.) The Clerk and Chairperson of the Township in which the feedlot is located;

3.) The Clerk of any City within two (2) miles of the feedlot;

4.) Property owner(s) within one-half (1/2) of a mile of the feedlot and to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners.

C. Prior to approval or disapproval of a Conditional Use Permit, the Planning Commission shall determine that the proposed development and/or use meets the following criteria:

1.) Is expressly identified in the Ordinance;

2.) Conforms to the conditions enumerated in the Ordinance;

3.) Is not injurious to the use and enjoyment of the uses already permitted in the area;

4.) Does not impede the normal and orderly development and improvement of the surrounding property;

5.) Has or will have adequate utilities, access roads, drainage, and other necessary facilities;

6.) Reasonable measures will be taken to minimize offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance;

7.) Prior to granting a Conditional Use Permit, the Feedlot Administrator and the Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.

D. Based upon the testimony at the public hearings and the possible effect on the surrounding area, the Planning Commission shall either recommend to approve, recommend to approve with conditions, or recommend to disapprove the Conditional Use Permit within ninety (90) days of receipt of a completed application, or within thirty (30) days after the public hearing.

E. If granted, a copy of the Condition Use Permit shall be filed with the County Recorder's Office.

2. **Conditional Uses.**
A Conditional Use permit shall be required for:

A. Any new feedlot with over one thousand (1,000) animal units is proposed or an existing feedlot is expanded to more than one thousand (1,000)

animal units, or where an existing feed lot with up to one thousand (1,000) animal units proposes to increase the number of animal units;

B. Any expansion or modification of an existing feedlot within the Shoreland Management District or bluff impact zone;

C.

Animal Units

	51 to 400 AU's	401 to 1,000 AU's	1,001 and more AU's
10 or more residents or a municipality.	¾ mile	1 mile	1.5 miles

D. Any feedlot proposing the use of any earthen manure storage basin;

E. Any feedlot proposing to be built within three-fourth (3/4) mile from ten (10) or more residences or a municipality;

F. Any feedlot proposing to be built within three hundred (300) feet from all public and private drainage ditches;

G. Any non-farm dwelling proposing to be built within two thousand (2,000) feet of any existing feedlot, unless it is to replace an existing dwelling;

H. Any feedlot requiring the Environmental Review Program Pursuant M.S. 116D.04 and 116D.045 and its administrative rules adopted by the Environmental Quality Board 4410.0200-4410.7800.

3. **Animal Manure Plan(s).**
All Conditional Use Permits shall have animal manure plans consisting of the following;

A. Compliance with all standards established within the County Feedlot Ordinance;

B. Submission of any other additional information requested by the Feedlot Administrator, Planning Commission, County Board or the MPCA;

C. Compliance with all MPCA animal manure requirements prior to the

Planning Commission's consideration of the Conditional Use Permit application as specified in Section 23.07 of this Ordinance;

D. Operational and Maintenance Plan;

E. Approved Plans for Earthen Storage Basins (NRCS Practice Standards for Manure Storage Ponds and/or a registered professional engineer);

F. Construction inspection plan(s) and verification log(s).

23.05 Feedlot Standards.

Feedlot Setbacks and Separations.

In order to prevent pollution of surface and groundwater, protect valuable agricultural lands, promote sound agricultural practices, and prevent conflicts, this Ordinance shall regulate feedlot size and location.

1. **Feedlot Setbacks.**

All setbacks of this Ordinance shall apply across county lines. The setback standards of the county where the feedlot is located shall apply. No new feedlot shall hereafter be erected within the following distances:

A. One-half (1/2) mile from Public Park(s);

B. One-forth (1/4) mile from Urban Expansion Management District;

C. New feedlots shall not be located within a Shoreland or Floodplain Management District;

D. One-half (1/2) mile from an FFA approved airport;

E. Two thousand (2,000) feet from a building used as a church, synagogue, or place of worship with regular scheduled services;

F. One-fourth (1/4) mile from a cemetery governed by a cemetery association, local government or congregation of worshipers;

G. Two thousand (2,000) feet from the Lac qui Parle Valley High School Building;

H. Any feedlot proposing to be built within two thousand feet (2,000) feet from a neighboring residence.

23.06 Waivers.

The Feedlot Administrator may issue a Waiver negating the necessity of a Variance hearing for any feedlot proposing to be built within two thousand (2,000) feet from a neighboring residence by the Board of Adjustment when all parties concerned have intentionally and/or voluntarily relinquished their rights as landowners under the Ordinance. This Waiver pertains only to the two thousand (2,000) feet in Section 23.05(1)(H).

1. **Waiver Application.**

The following process shall be followed in applying for a Waiver:

A. A person requesting a Waiver shall contact the Feedlot Administrator and obtain a Waiver form.

B. Prior to granting the Waiver the Feedlot Administrator shall determine that the Waiver has been properly signed by:

1.) The Clerk and Chairperson of any Township in which the affected parcel is located;

2.) The Clerk of any City within two (2) miles;

3.) The owners of any lot(s) or parcel(s) of land affected within the separation setbacks as only defined by the provision in Section 23.05(1)(H) of this Ordinance

4.) The owner(s) of record within five hundred (500) feet of the affected property.

C. The Waiver shall be signed by the applicant and the affected property owner and notarized.

D. If issued, a copy of the Waiver shall be filed with the County Recorder's Office.

2. **Granting of Waivers**

Waivers may only be granted in accordance with the provisions of this Ordinance, as applicable. A Waiver shall not circumvent the general purposes and intent of this Ordinance. The granting of a Waiver shall have the same effect as a decision by the Board of Adjustment.

23.07 Animal Manure Storage Facilities.

1. **Requirements.**
   All new liquid manure holding structures for animal manure shall have a minimum storage capacity of six (6) months and shall meet the minimum construction standards required by the MPCA.

23.08 Animal Manure Earthen Storage Basins.

1. **Standards.**
   The standards for animal manure earthen storage basins and lagoons shall be in compliance with:

   A. Minimum MPCA requirements;

   B. All earthen plans shall be prepared and approved by a registered professional engineer or NRCS job authority approval;

   C. Soils identified as having severe limitations due to seepage shall have a synthetic liner;

   D. Temporary manure storage area such as daily scrape areas are not considered earthen basins or concrete pits and shall be operated in a non-polluting manner.

23.09 Animal Manure Application and Utilization.

1. **Application.**
   All application of animal manure shall comply with all setbacks of this Ordinance to minimize odor nuisance, potential point and non-point pollution.

2. **Utilization/Acreage Requirements.**
   All utilization of animal manure as fertilizer shall be applied in the most agronomically efficient manner. The required acreage for utilization will be based on the minimum acreage necessary to distribute manure at a rate equal to the estimated crop utilization of nitrogen on an annual basis. All applicants must provide:

   A. Animal unit capacity of facilities;

   B. Acreage available for spreading of manure (a spreading agreement shall be provided when adequate acres are not available);

C. Typical crop rotation and annual acres of each crop;

D. System(s) used for the collection, storage and application of manure.

3. **Animal Manure Application and Utilization Setback Chart:**

AMIMAL MANURE APPLICATION AND UTILIZATION SETBACKS		
Surface or Irrigation Applied	**Incorporated or Injected**	**Location**
300 Feet	100 Feet OHWL (Ordinary High Water Level)	Watercourses, streams, rivers, lakes, wetlands and ditches
1,000 Feet	1,000 Feet	Municipal Well
200 Feet	200 Feet	Private Wells
500 Feet	200 Feet	Residential area (10 or more homes) or municipality
300 Feet	200 Feet	Residential, neighboring residence or cemeteries
500 Feet	100 Feet	Urban Expansion Management District
Prohibited	Yes	10 year floodplain
100 Feet	10 Feet	Field tile intake

4. **Exemption.**
When the area topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Feedlot Administrator and meeting minimum MPCA guidelines.

23.10 Non-Conformities.
All nonconforming feedlots as of the date of this Ordinance may continue, but they will be managed according to applicable local, state and federal statutes and this Ordinance for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use.

1. **Construction, Addition or Expansions.**
A. **General.** All construction, additions or expansions to the outside dimensions of existing nonconforming feedlots within the setbacks as defined by this Ordinance must be authorized by a Variance issued in conformance to the following:

B. The substitution of one nonconforming use for another nonconforming use on the same property may be permitted only when such substituted use is of a same or more restrictive classification provided the Board of

Adjustment deems the proposed use to be no more harmful than the existing nonconforming use. In permitting such nonconforming use substitution, the Board of Adjustment may require appropriate conditions in accordance with the provisions of this Ordinance. In no case shall such nonconforming use substitution be construed to alter the intent of this Ordinance.

C. When a nonconforming use is discontinued or abandoned for thirty-six (36) consecutive months the structure, or structure and premises in combination, shall not thereafter be used except in conformance with this Ordinance. A reasonable interim between tenants or ownership shall not be construed to mean discontinuance or abandonment.

D. No existing nonconforming structure or land use shall be allowed to expand unless specifically authorized in this Ordinance.

E. Any nonconforming structure or premises devoted to a nonconforming use which is destroyed or damaged by fire, flood, tornado or similar non-controllable cause to an extent of more than fifty (50) percent of its value shall, if rebuilt, comply fully with the provisions of this Ordinance.

F. Modifications or expansion to existing feedlots located within a bluff impact zone or shoreland of any river class or within three hundred (300) feet of any lake class is allowed if they do not further encroach into the riparian setback or bluff impact zone.

23.11 Amendments.

This Ordinance may be amended whenever the public necessity and the general welfare requires such amendment(s).

1. **General Provisions.**

A. **Initiation of Proceedings to Amend This Ordinance.**
Amendment proceedings may be initiated by a petition of the owner(s) of property affected, or by the County Board.

B. **Amendment by County Board.**
The County Board may amend the procedures, standards, requirements, maps and other provisions of this Ordinance after holding such public hearings as it deems necessary. At least one (1) public hearing shall be required with notice published in the official newspaper at least then (10) days before the public hearing. In addition, the Board shall give written notice of any changes and/or amendments of the official

control(s) to the following:

1.) The governing bodies of all towns and all municipalities located within the county;

2.) The Clerk and Chairpersons of any Township in which the affected parcel is located;

3.) Owners of record within one-half (1/2) mile of the affected property;

C. **Amendment Initiated by Property Owners.**
Amendments initiated by property owners shall require at least one (1) public hearing with notice published in the official newspaper at least ten (10) days before the public hearing. The Feedlot Administrator shall also give written notice to the following for amendments changing the zoning district of specific properties:

1.) The property owners of record;

2.) The owners of record of any lot or parcel within one-half (1/2) mile of the affected property;

3.) The Clerk and Chairperson of any Township in which the affected parcel is located;

4.) The Clerk of any City within one (1) mile of the affected parcel.

23.12 Violations, Penalties of Enforcement.

1. **General Provisions.**

A. **Violations.**
Failure to comply with any provision of this Ordinance shall constitute a violation of the Ordinance punishable as specified in Subdivision 23.12(2) of this Ordinance. Violations include the making of a false statement in any document required to be submitted under the provisions of the Ordinance and failure to comply with any of the requirements of the Ordinance, including violations of conditions and safeguards established in connection with grants of Variances or Conditional Use Permits. Violations of this Ordinance may occur regardless of whether or not a permit is required for a regulated activity. Each day that a violation continues shall constitute a separate violation.

B. **Penalties.**
Any person violating this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or by imprisonment or both as set by State Statues. Each day that a violation continues shall constitute a separate offense. A Notice of Violation shall be delivered in person or by certified mail, return receipt requested, to the owner of the property thirty (30) days before a criminal prosecution may be commenced. If notice is given by certified mail return requested, said notice is effective as of the date of mailing. For purposes of this subdivision, owner is defined as the owner of record. The address of mailing will be the address maintained at the County Auditor's Office.

C. **Criminal and Civil Actions.**
A criminal or civil action may be commenced by the County simultaneously or separately.

D. **Enforcement.**
This Ordinance shall be administered and enforced by the Feedlot Administrator, who is hereby designated the enforcement officer.

E. **Processing Fees.**
The County Board may adopt a schedule of fees to defray all or any portion of the costs of administering the provisions of this Ordinance.

F. **Date of Effect.**
This Ordinance shall be in full force and in effect from and after its passage and approval date, as provided by law.

AMENDMENT SECTION

SECTION 24: AMENDMENTS

Land Use Ordinance

SECTION 25 WIND ENERGY ORDINANCE

25.01 Title

The title of this ordinance is the Lac qui Parle County Wind Energy Ordinance and will be referred to herein as "this Ordinance".

25.02 Purpose

This Ordinance is established to set forth processes for permitting Wind Energy Conversion Systems (WECS) with a rated capacity of less than 25,000 kilowatts (kW) or 25 megawatts (MW), and to regulate the installation and operation of WECS within Lac qui Parle County, not otherwise subject to siting and oversight by the State of Minnesota Pursuant to Minnesota Statutes, Chapter 216F, Wind Energy Conversion Systems, as amended.

25.03 Jurisdiction

The regulations of this Ordinance shall apply to all the area of Lac qui Parle County outside the incorporated limits of municipalities.

25.04 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Where the provisions of this Ordinance impose greater restriction than those of any statute, other ordinance or regulations, 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.

25.05 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.

Board of Adjustment. An officially constituted quasi-judicial body appointed by the County Board whose principle duties are to hear appeals from decisions of the Zoning Administrator and, where appropriate, grant variance from the strict application of this Ordinance.

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.

Comprehensive Plan. Comprehensive Plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the unincorporated area of the county.

Conditional Use. A land use or development as is defined by the Lac qui Parle County Land Use Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon the finding that: (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) use or development conform to the Comprehensive Plan of the County and (3) is compatible with the existing neighborhood.

County. Lac qui Parle County, Minnesota.

County Board. Includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the Lac qui Parle County Board of Commissioners.

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.

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.

Meteorological Tower. For the purposes of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus

other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

Micro-WECS. Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 100 feet or less.

Native Prairie Plan. The plan shall address steps to be taken to identify native prairie within the project area, measures to avoid impacts to native prairie, including foundations, access roads, underground cable and transformers, shall not be placed in native prairie unless addressed in the prairie protection and management plan.

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

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

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

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

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

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

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

Total Name Plate Capacity. The total of the maximum rated output of the electrical

power production equipment for a WECS project.

Tower. Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

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

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

Zoning Ordinance. The Lac qui Parle County Land Use Ordinance

25.06 Procedures/Permit Application

Land Use Permits, Conditional Use Permits and Variances shall be applied for and reviewed under the procedures established in the Lac qui Parle County Land Use 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.

2. The names and addresses of project applicant(s).

3. The names and addresses of the project owner(s). 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. Signed copy of the Power Purchase Agreement or documentation that the power will be utilized on-site.

9. The latitude and longitude of individual wind turbines.

10. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.

11. Location of wetlands, scenic, and natural areas including bluffs within one thousand three hundred twenty (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. The National Electrical Code, as amended.
    B. Federal Aviation Administration (FAA), as amended.
    C. Minnesota Pollution Control Agency (MPCA)/Environmental Protection Agency (EPA), as amended.
    D. Microwave Beam Path Study
    E. Acoustical Analysis

13. Location of all known communications towers within two (2) miles of the proposed WECS.

14. Location of all known public or private airports or heliports within five (5) miles of the proposed WECS.

15. Detailed Decommissioning Plan including how decommissioning costs would be covered. Applicant shall be required to purchase a performance bond as specified in Section 25.09 (4) (D&E) for the amount of estimated 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.

25.07 District Regulations
Permitted and Conditional Uses

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

District	Micro-WECS	Micro-WECS < 120' Tower	Non-Commercial < 100 kW	Commercial > 100 kW	Meteorological Tower
Special Protection	**C**	**C**	**C**	**NP**	**NP**
Agricultural	**P**	**C**	**P**	**C**	**P**
Urban Expansion	**C**	**C**	**C**	**C**	**P**
Commercial	**C**	**C**	**C**	**C**	**P**
Industry	**C**	**C**	**C**	**C**	**p**
Floodplain Mgmt.	**C**	**C**	**C**	**C**	**P**
Shore land	**C**	**C**	**NP**	**NP**	**N**

25.08 Setbacks

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

District	Micro-WECS	Non-Commercial <100 kW	Commercial >100 kW	Meteorological Tower
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 total height. Minimum 250 feet. Any guy wires must meet the setbacks of the District.
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.
Noise Standard	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	Minnesota Rule 7030, as amended.	N/A
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.
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.

Public Conservation Lands Managed as Grasslands.	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.
Wetlands, USFW Types III, IV & V	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.
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.
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

2. **ADDITIONAL SETBACK REQUIREMENTS**

A. 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, as listed in Section 25.08 (1) of this Ordinance.

B. Native Prairie – Turbines and associated facilities shall not be placed in native prairie unless approved in 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 sixty (60) days prior to the start of construction.

C. Sand and Gravel Operations – No turbines, towers or associated facilities in active sand and gravel operations.

D. 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 Lac qui Parle County. Setbacks or other limitations determined in accordance with MN/DOT Department of Aviation and Federal Aviation Administration (FAA) requirements.

E. Setbacks – substations, accessory facilities, and feeder lines not located within a public right-of-way or any utility easement required by the Lac qui Parle County Land Use Ordinance shall be setback at least one hundred fifty (150) feet from the centerline of any county road as regulated in the Lac qui Parle Land Use Ordinance.

F. 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.

G. No wind turbines allowed within Shoreland Districts, except Micro Towers may be allowed by permission of the Lac qui Parle County Planning Commission through the conditional use process and only within areas where electricity is not presently available.

25.09 Requirements and Standards

1. **Safety Design Standards**

A. **Engineering Certification**.
For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. **Clearance**.
Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.

C. **Warnings.**

1.) For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

2.) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires. Aviation warnings

shall be painted on meteorological towers of less than two hundred (200) feet.

2. **Height Standards**

A. Total height. Non-Commercial WECS shall have a total height of less than two hundred (200) feet.

B. In those districts where meteorological towers are a permitted use, meteorological towers of less than two hundred (200) feet shall be exempt from Conditional Use process established for structures exceeding height requirements.

3. **Tower Configuration Standards**

A. All wind turbines, which are part of a commercial WECS, shall be installed with a tubular, monopole type tower. Non-Commercial or C-BED WECS may be installed with a tubular, monopole or lattice tower.

B. Meteorological towers may be guyed.

C. 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 matt or non-reflective.

D. 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.

4. **Other Applicable Standards**

A. Other Signage. All signage on site shall comply with Section 19.10 of the Lac qui Parle County Land Use 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.

B. All feeder lines subject to Lac qui Parle County Authority equal to or less than thirty-four point five (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 Section 13 of the Lac qui Parle County Land Use Ordinance for variance procedures.

C. 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.

D. Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Lac qui Parle County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use.

E. 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. 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 Lac qui Parle County Board will require a performance bond to ensure that decommissioning is completed as required in this subdivision. Micro-WECS will be exempt from obtaining a performance bond but are required to have a decommissioning plan. The plan shall also address road maintenance during and after completion of the decommissioning.

F. Orderly Development. Upon issuance of a Conditional Use Permit, all WECS shall notify the Environmental Quality Board Power Plant Siting Act Program Staff of the project location and details on the survey form specified by the Environmental Quality Board.

G. Noise. All WECS shall comply with Minnesota Rules 7030, as amended, governing noise.

H. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

I. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

5. **Interference**

A. 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.

6. **Avoidance and Mitigation of Damages to Public Infrastructure**

A. Roads.

Applicants shall:

1.) 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.

2.) 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.

3.) Contact the Lac qui Parle County Dispatch prior to any road closures for the re-routing of emergency vehicles during the closure.

4.) Contact the road authority to conduct an inspection of the road conditions of the haul routes prior to and after construction.

5.) 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 Lac qui Parle County have been returned to pre-construction condition.

B. 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.

7. **Pre-Construction Meeting**

A. 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:

1.) Township Chairman
2.) Lac qui Parle County Highway Engineer
3.) Lac qui Parle County Sheriff
4.) Lac qui Parle County Zoning Administrator
5.) Area Hydrologist, Minnesota Department of Natural Resources
6.) Minnesota Pollution Control Agency
7.) United States Farm Service Agency
8.) Lac qui Parle County Soil & Water Conservation District
9.) US Fish & Wildlife Service
10.) Minnesota State Historical Society
11.) Two Planning Commission Members: Chair and County Board Representative
12.) MN/DOT

25.10 Enforcement, Violation, Remedies, Penalties and Fees

1. **Enforcement, Violations, Remedies, and Penalties**

Enforcement of this Ordinance shall be done in accordance with process and procedures established in Section 11 of the Lac qui Parle County Land Use Ordinance.

2. **Fees**

A. The fees for a Zoning Certificate, Variance, Amendment, or Conditional Use Permit, shall be established by the Board. The Board may review and revise the fee schedule periodically. The Zoning Administrator shall issue the Zoning Certificate 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 or requesting a Variance 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.

B. Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this Ordinance.

25.11 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.

25.12 Date of Effect

1. **Date of Effect**
   This ordinance shall be in full force and effect from and after its passage and publication according to law.

   Adopted the 1st day of February, 2010.